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IN THE SUPREME COURT OF THE UNITED STATES

CHARLES A. NAVE, Appellant	)	
v	)	NO.
CITY OF SEATTLE, Appellee	)	

APPEAL FROM THE SUPREME COURT OF THE STATE OF WASHINGTON

JURISDICTIONAL STATEMENT

Charles A. Nave (Hereinafter referred to by pronouns of first person) has appealed from Final Judgment, entered JULY 28, 1966, by Washington State Supreme Court. Appellee will hereinafter be referred to as "City".

OPINIONS AND UNOFFICIAL REPORTS BELOW

The Opinion of Washington State Supreme Court is reported at 68 Wn. 2d 714 (Appendix "A" with comments by Appellant).

The trial court's Memorandum Decision (Superior Court of King County, Washington, No. 615745) (Appendix "B" with comments by Appellant).

Newspaper clippings upon prior case (Seattle v Nave, 62 Wn. 2d 446) that led to my suit are listed as follows:

Seattle Times, February 6, 1963 (Appendix "H").

Seattle Post Intelligencer, February 6, 1963 (Appendix "I").

The Tacoma News Tribune, July 9, 1963 (Appendix "J").

Salina Journal, Salina, Kansas (Appendix "K").

JURISDICTIONAL GROUNDS

PURSUANT to Article IV, Section 24 of the City Charter permitting action upon claims for damages 60 days after presentation, and authority to bring such action given by RCW 4.08.120 and RCW 4.92.090 (each, valid law which is guaranteed available equally to every person under the jurisdiction of the State by Section 1 of the 14th Amendment to the Constitution), I brought action against the City for damages it did to me by false prosecution which was wilfully and knowledgeably carried on for purposes in fraud and corruption.

JURISDICTION EXISTS to this Court because courts of the State of Washington UNLAWFULLY dismissed my cause while knowingly acting under statutes ENACTED BEYOND GRANT OF AUTHORITY which abridged and deprived me of rights in the State Constitution APPROVED BY CONGRESS and guaranteed to me by the "Due Process" and "Equal Protection" clauses of the 14th Amendment to the Constitution: Rights invoked in each State Court and invoked here.

JURISDICTION IS CONFERRED to this Court by 28 U.S.C. 1257(2).

THE SUPERIOR COURT JUDGE for King County, Washington, while wilfully acting under INVALID State statutes, prejudicially criticized me for invoking my rights, and, without jurisdiction, granted Summary Judgment of Dismissal against me on January 25, 1965.

THE STATE SUPREME COURT, in knowledge that the judge of the Superior Court had acted under invalid statutes to criticize me for invoking my rights, reinvoked there, ignored my rights and, in knowledge that it was, itself, pursueing measures in statutes enacted without authority that deprived me inviolate rights, it used those measures to arbitrarily, injudiciously and capriciously affirm in Final Judgment entered JULY 28, 1966.

THE STATE SUPREME COURT, as shown in its Remittitur of JULY 28, 1966, Denied me a Rehearing. (Appendix "C").

NOTICE OF APPEAL to this Court was filed in the State Supreme Court on AUGUST 23, 1966.

WORDS BY THIS COURT in the following cases sustain such jurisdiction:

Shelley v Kramer, 334 U. S. 1: (1948)

> "That from the time of the adoption of the 14th Amendment until the present, it has been the consistent ruling of

this court that the action of the state to which the Amendment has reference, includes action of state courts and state judicial officials. State action, as that phase is understood for the purpose of the 14th Amendment, refers to exertions of State power in all forms. And when the effect of that action is to deny rights subject to the protection of the 14th Amendment, it is the obligation of this court to enforce the Constitutional commands." "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.";

Napu v People of State of Ill., (1959) 79 S. Ct. 1173:

"The United States Supreme Court has the duty to make its own independent examination of the record to determine facts when Federal Constitutional deprivations are alleged.";

Miranda v State of Arizona, June 13, 1966, 86 S. Ct. 1602, (U.S. Supreme Court Reporter, Vol. 86, No. 17, End of 1965 Term) at Syllabus 38, page 1608 and page 1636:

"Where rights secured by Constitution are involved, there can be no rule making or legislation which would abrogate them."

INVALID STATE STATUTES AND VALID LAWS

The following statutes were enacted beyond grant of authority. They are repugnant to the "Due Process" and "Equal Protection" clauses of the 14th Amendment to Constitution.

REVISED CODE OF WASHINGTON:

Of Title 4 - Civil Procedure, Chapter 4.44 Trial, Vol. 1 pages 4 and 5: RCW 4.44.080, 090, 095, 100, 110; (Appendix "D")

Chapter 4.04 - Rule of Decision-Forms of Action, Vol. 1, page 3: RCW 4.04.010 (Appendix "D");

Chapter 4.48 - Trial before Referee, Vol. 2, page 3: RCW 4.48.010 (Appendix "D");

Of Title 5 - Evidence, Chapter 5.24 - Uniform Judicial Notice of Foreign Laws Act, Vol. 3, page 3: RCW's 5.24.010, 020, 030, 040, 050, 060, 070 (Appendix "D"); Of Title 36 - County, Chapter 36.18 - Fees of County Officers, Vol. 4, page 3: RCW 36.18.020 (5) (Appendix "D").

The following are all valid laws:

REVISED CODE OF WASHINGTON:

Of Title 4 - Civil Procedure, Chapter 4.44 - Trial, Vol. 1, Page 3: RCW 4.44.~~101~~ 969 (Appendix "E");

Of Title 35 - Cities and Towns, Chapter 35.31 - Accident Claims, Vol. 5, page 1: RCW 35.31.010 (Appendix "F").

SEATTLE CODE Vol. 1, Page XVII, Charter: Article IV Section 24 (Appendix "F").

WASHINGTON STATE CONSTITUTION, Vol. 0 of Revised Code of Washington:
Of Article I - Declaration of Rights:
Section 1 - Political Power (Appendix "E");
21 - Trial by Jury (Appendix "E");
29 - Constitution Mandatory (Appendix "E");
Of Article IV - The Judiciary:
Section 16 - Charging Juries (Appendix "E");
Of Article XXIII - Amendments:
Section 1 - How Made (Appendix "E").

UNITED STATES STATUTES:
Of 25 U.S. Statutes at Large, C. 180, P. 676:
Enabling Act (Approved Feb. 22, 1889) (Appendix "G").

UNITED STATES CONSTITUTION:
Fourteenth Amendment, Section 1 (Appendix "G").

QUESTIONS

The Questions to problems in my Notice of Appeal have been reworded, rearranged and renumbered as follows:

JURISDICTIONAL STATEMENT QUESTIONS:

1, 2, 3, 15 & 22 embrace each of the questions raised by the problems stated in Notice of Appeal;

4 relates to problems that raised question (a) in the Notice of Appeal;

5, 6, 7, 8, 9, 10, 11, 12 & 13 are by the problems that raised questions (c), (d), (e), (f) & (g) in the Appeal;

14 & 15 are reconstructions from problems that raised the questions (b), (i), (j), (m), (o), (q) & (r) in Notice of Appeal;

16 & 17 are raised from the problems to questions (k), (l), (m), (n) & (o) of the Notice of Appeal;

18 & 19 arrived by the problems to questions (c), (d), (e), (f), (g), (k), (n), (o), (p), (q) & (r) set in the Notice of Appeal;

20 has substance concerning the problems to questions (g), (h), (i) & (j) in Notice of Appeal;

21 was formulated from problems to the questions (p), (q) & (r) in the Notice of Appeal.

1. Is it prudent reasoning for me to believe that each branch of government, constitutionally conducted, is performed by "office" confined to "process" in "valid law"?

2. Is the legislature confined to authority extended to it by the State Constitution?

3. As a Person under the jurisdiction of the State of Washington, Does the "Due Process" and "Equal Protection" clauses of the 14th Amendment to the Constitution protect me against legislative enactments, made beyond grant of authority, that deprive me of inviolate rights and due process set in clearly worded laws of State Constitution?

4. When I have been pressed into acceding to requirements and conditions in statutes enacted beyond grant of authority, which nature is not known until a later date, Am I held to the conditions and requirements of such statutes?

5. The 14th Amendment to the Constitution reads: "Nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.", Is it prudent reasoning for me to believe that those words are "PROCESS" of law by the Constitution?

6. Does "Due Process" in above quote infer that there is a "RIGHT TO PROSECUTE" established by the Constitution?

7. Would this inferred "right to prosecute" be weighed as "process" of the 14th Amendment?

8. If the "right to prosecute" is used to accomplish anything improper of the right, Would that be "ABUSE OF THE RIGHT TO PROSECUTE"?

9. Would "malicious prosecution" be proper use of the "right to prosecute"?

10. Would "malicious prosecution" be proper use of "office" of government?

11. With "right to prosecute" established "process" of Constitution and, "malicious prosecution" improper use of that process, Would it be an "ABUSE OF PROCESS"?

12. Would "malicious prosecution" by government be "Misuse of Office"?

13. When government misuses rights established to it by process of the Constitution, Is it prudent reasoning for me to believe that the doing was both "MISUSE OF OFFICE" and "ABUSE OF PROCESS"?

14. As a citizen of the United States, When I invoke the inviolate rights set in valid laws of the State, can the Courts of the State lawfully deprive me of those rights?

15. Can a judge of the courts of Washington legally obtain jurisdiction by statutes enacted beyond grant of authority?

16. When valid law clearly states the elapse of time to the maturing of a right, ending the life of an adverse right in which no effort was made to cloud the maturing right. Is the mature unclouded right secure from legal clouding by the adverse ended right?

17. Does the "Due Process" and "Equal Protection" clauses in the 14th Amendment of the Constitution protect rights of mine by a valid law of the State when my rights do not overlap those of the adverse party and are clearly stated?

18. When an act, under color of law, makes indispensibly necessary another act of legal nature to establish legal claim, Does the latter act, lawfully conducted, control?

19. May the Courts of the State of Washington, erect barriers around unlawful acts in such a way that no claim filed in the time they set would have legal usefulness at the time of filing?

20. In my alleging "Wilfulness and Knowledge of Falseness and Damage", Would these constitute issues of fact?

21. May the Courts of this State hold me responsible for lapse of time through court action, not of my making or of my control, which was caused by court negligence and CRIMINAL NONFEASANCE by the City?

22. After enactment, Washington's Constitution was approved by Congress. It has never contained, as State Law, any inclusion of the Common Law or grant that it be enacted into its laws, or grant to make judgments of other states the rulings of this state. But the Leglislature has enacted such statutes in extremely vague language tieing State Courts and persons therein to such measures: They have been used to deprive me rights by valid laws approved by Congress, Would these invalid statutes, by their use, be repugnant to the "Due Process" and "Equal Protection" in clauses of the 14th Amendment to Constitution?

STATEMENT OF THE CASE

My appeal was taken from prejudicial actions of the Judge of the Superior Court of King County, Washington, who, without jurisdiction to hear the City's Motion for Dismissal by Summary Judgment, refused to give consideration to valid laws of the State; who brought questions into the hearing of motion that were not contained in the motion; who did all the talking for the City, letting its attorney say "THANK YOU YOUR HONOR' when he geanted the motion; who ignored my motions that HE LACKED JURISDICTION and that the City's motion had been made in BAD FAITH; who ridiculed me when I INVOKED my rights as natural born citizen of the United States; who made light of the fact, when I said the court had pressed me into acceding to unconstitutional requirements that, in effect, amounted to a binding contract upon the Superior Court which it was then in the act of breaking; who ignored the valid laws that governed which I had set out with a showing that I had not waived my rights in them; who ignored that a jury trial date was two days hence and all subpoenas out (an inviolate right by the State Constituion, approved by Congress, and guaranteed by the "Due Process" and "Equal Protection" clauses of the 14th Amendment of the Constitution - it setting issues to the jury he was then considering); and, who, by his position under statutes that were enacted beyond grant of authority and adverse to rights and provisions of valid laws, deprived me of "Due Process" and "Equal Protection" of the laws when he arbitrarily, prejudiciously, injudiciously and capriciously dismissed my cause by summary judgment on January 25, 1965.

THE STATE SUPREME COURT: Knowingly ignored my rights which I invoked before it; it picked up the position of the Judge of the Superior Court in the maner that it existed under invalid statutes; it ignored my showing that the Judge lacked jurisdiction to hear the motion and was prejudiced; its Opinion is in words that could only fall under the statutes that were enacted beyond grant of authority (APPENDIX "D"), and, which are of construction making them adverse to valid laws (APPENDIX "E") of the State approved by Congress and guaranteed by the "Due Process" and "Equal Protection" clauses of the 14th Amendment to the Constitution (APPENDIX "G"); its Opinion has falsely linked my rights to jury trials as set in the 7th Amendment to the Constitution (law for Federal courts), when my rights to "Trial by Jury" was in the State Courts and under Article I, Section 21 of the State Constitution (approved by Congress and guaranteed by the "Due Process" and "Equal Protection" clauses of the 14th Amendment); it failed to comprehend: THAT GOVERNMENT, WHEN CONSTITUTIONALLY CONDUCTED, IS PERFORMED BY "OFFICE" CONFINED TO "PROCESS" IN VALID LAWS: it used terms short of this meaning in Constitutional Government in its Opinion in affirming; it Denied me a Rehearing to bring it into line with the merits of my cause in its relation to the valid laws; it has deprived me "Due Process" and "Equal Protection" of the laws which places both itself and the State in a position of repudiating its agreement made with Congress upon its Admission as a State of the Union: It is a position repugnant to the Union and its Constitution. It ignored my showing invalidity of

statutes and, confining itself to such measures, it held me responsible for its negligence and negligence by the City that consumed the time before its final judgment of September 13, 1963.

RAISING FEDERAL QUESTIONS IN SUPERIOR COURT

My Brief Opposing Summary Judgment of Dismissal (Filed January 18, 1965), on page 2 (Tr. 0033) reads:

> "In Article I, Washington State Constitution, Section 2, Trial by Jury:
>
> "The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto." (Underscored by plaintiff to show application to Cause before the Bar)
>
> "APPLYING ARTICLE I, SECTION 21, STATE CONSTITUTION, to Cause before the Bar:
>
> 1. FEBRUARY 21, 1964, Plaintiff demands jury trial, pays fee.
> 2. Cause is a civil case.
> 3. No consent has been given by plaintiff to waive jury trial.
> 4. To preclude jury trial would abrogate plaintiff's inviolate right."

In hearing of January 25, 1965, I invoked my rights as a natural born citizen of the United States. Also telling the Judge, The Court put unconstitutional requirements upon me to obtain setting of jury trial that amounts to a contract binding the Court and you're breaking it.

Page 2 of the Memorandum Decision shows how the Judge ridiculed my position. (Appendix "B" page XVII) (Tr. 0018)

In each hearing, my position was by clearly worded valid laws while the Judge performed by invalid statutes.

RAISING FEDERAL QUESTIONS IN STATE SUPREME COURT

By my ADDITIONAL AUTHORITIES filed FEBRUARY 17, 1966: Page 4: (Tr. 0094):

"4. The precise wording of Section 21 has limits in its "grant of authority" to the legislature. It stipulates that the legislature "may" provide for waiving of trial by jury in civil cases where "the consent of the parties interested is given thereto".

"5. The precise words of Section 21 do not provide that issues of law are not to be rendered by the jury. The precise words do not grant authority to the judge to decide issues of law to the exclusion of the jury; precisely it is "trial" (non-restricted sense) by jury. With trial resting with the jury in a non-restricted manner, the judge cannot, legally, abridge power, or, assume power, or, abrogate power set in "trial by jury" to the exclusion of the jury.";

Page 6: (Tr. 0096):

"Civil rights are rights pertaining to a person

in virtue of his citizenship in a state or community, rights capable of being enforced or redressed in a civil action. Also a term applied to certain rights secured to citizens of the United States by the thirteenth and fourteenth amendments to the Constitution, and by various acts of Congress made in pursuance thereof." (State of Iowa v Railroad Co., C.C. Iowa F. 498)."

By ORAL ARGUMENT, FEBRUARY 21, 1966: Proceedings, Pages 9 & 10: (Sup. Tr. 0008, 0009)

"Trial", by the wording of Section 21, of Article I, of the State Constitution, is not in any way qualified as to the issues. There is no setting of issues of law to judge and issues of fact to jury. Its wording is "Trial" in the whole meaning of trial. Its simple concise wording is "The right of trial by jury shall remain inviolate".

> "The wording does not set suits to a particular law where it could be construed that issues of trial are divided between judge and jury.

"Authority to the Legislature is limited to specific things--"It may provide for waiving of the jury in civil cases where consent of parties interested is given thereto". It does not provide that Legislature may require the parties thereto to pay fee and demand a trial by jury. There is no provision that the legislature may divide issues of trial between judge and jury or permit court rules to so do. Its simple language only makes it possible for parties to waive the jury.

> "Section 21 implies that the jury is capable to determine all issues of trial.

"Section 21 is not based upon the traditional measures of the Common Law.
"Section 21 is law by and wholly a constitutional expression by the reasoning and power of the people to obtain a higher degree of justice than was had under the Common Law.

"There is no provision in the State Constitution by which my inviolate right to trial by jury can be impaired, and there is no provision for a judge to substitute himself for a jury on any issues of trial.

"I am confident that a jury is as capable to determine issues of law as well as it can determine issues of fact.

"The State Constitution also states: "The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise." There are no express words otherwise.

"When I made demand for jury trial, I was following the statutes as guide for procedure in the prosecution of my cause. Then, it did not occur to me that the procedures set out in the statutes were misleading and carried features that encouraged deceitfulness for wrongful gain, and, that the statutes was invalid."

"The statutes, in the misleading features of procedure, makes the actions taken, that conformed to its tenor of procedure, ineffectual to the extent that such actions were made believing it to be valid law, and, were not made with intent to deceive or damage. Its invalidity would not excuse use of it to deceive and damage.

"I was misled by the invalid statutes when I made demand for jury trial and paid fee:".

By PETITION FOR REHEARING:
Page 15: (Tr. 0120):

"I am not asking any favor or grant from the court. But the court has the unbending duty, by oath and by law, to protect to me my inviolate right of trial by jury when I have not waived it. That doesn't mean duty as the court sees it, it means duty as set to the Constitution."

"The inviolate rights of Article I, Section 21, and the clear concise manner expressed for waiving that right, preclude legislative enactment or so-called judicial legislation from altering them without grant of authority."

"My being misled in my rights nullifies the process by which the misleading or failure to properly apprise came about. One must be properly apprised of his right—the statutes do not do that in regards to this inviolate right to trial by jury unless waived by the parties thereto. Recent United States Supreme Court Decisions are set upon proper apprisal of one's rights—Though the decisions were in regards to one being interviewed, it could be no less binding where the right is declared to be inviolate.";
Page 22: (Tr. 0127):

"DUE PROCESS is to provide justice and protect rights. It exists ever preserved to each individual. It covers all processes. It is fully clothed before the 1st act and never expires. Perverted use of this always existing process is ABUSE OF DUE PROCESS. "Malicious Prosecution" is perverted use of due process."

"NO statutory or Constitutional Law of State distinguishes ABUSE OF PROCESS from MALICIOUS PROSECUTION."

"A decision is not law—it is a determination under law and not binding upon any other cause unless there is a law that so specifies. To treat decisions as law is not judicious. Judicial is within law, not making law."

"Position, by Opinion, holds me responsible for all court delay and punishes me for being falsely convicted."

THE OPINION COMPLETELY IGNORES REPUGNANCY OF THE INVALID STATUTES DEPRIVING ME OF RIGHTS GUARANTEED BY THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION.

THE QUESTIONS ARE SUBSTANTIAL

These Questions substantially require plenary consideration for the reason that each one pertains to the courts depriving me my rights, as guaranteed to me as a citizen of the United States by the "Due Process" and "Equal Protection" clauses of the Fourteenth Amendment to the Constitution, by the application against me of statutes that were enacted beyond grant of authority; and, by application against me of so-called judicial legislation made without any such grant of authority.

QUESTIONS AND EXPLANATION:

1. Is it prudent reasoning for me to believe that each branch of government, constitutionally conducted, is performed by "office" confined to "process" in "valid law"?

VALID LAW: Formal enactments by proper authority.
PROCESS: Procedure for employing legal rights constitutionally established. OFFICE: Position of legal trust.

2. Is the legislature confined to authority extended to it by the State Constitution?

NO "grant of authority is found in the State Constitution for any of the legislative enactments of APPENDIX "D"; these statutes are adverse to the measures (Appendix "E") of the State Constitution as approved by Congress on their enactment by qualified voters of the State (Appendix "G").

3. As a person under the jurisdiction of the State of Washington, Does the "Due Process" and "Equal Protection" clauses of the 14th Amendment to the Constitution protect me against legislative enactments, made beyond grant of authority, that deprives me of inviolate rights and due process set in clearly worded laws of the State Constitution?
4. When I have been pressed into acceding to requirements and conditions in statutes enacted beyond grant of authority, which nature is not known until a later date, Am I held to the conditions and requirements of such statutes ?

Questions 3 and 4 present a substantial problem: In the trial of CITY v. NAVE (Ap. "M") (Tr. 0008, line 29-30), City and I were asked if we agreed to waiving the jury. Upon filing my

Complaint to this Cause, I informed the Clerk that I would not be waiving the jury: At which time I was told that I must make demand and pay a jury fee (Ap. "N") (Sup. Tr. 0015), and also told to go to the law library and see the statutes on a jury trial. There, the Librarian found me the statutes which I followed in their wording: NOT KNOWING that they had been enacted beyond grant of authority and, deprived me of rights, and, their conditions which I had followed were improper instructions to my obtaining my inviolate rights. Later, when I found that these statutes had misled me in a manner that would deprive me my inviolate rights if left uncorrected, I then, by brief to the trial court (Tr. 0033), set out the true law and my position as under it and, so invoked as a citizen of the United States in the hearing of January 25, 1965. The State Supreme Court was adequately apprised of my position under the true laws and their limitations (pages 13 - 16 supra). Each court ignored the true laws: The judge of the trial court ridiculed me for invoking my rights; The State Supreme Court ignored both my rights and my stand.

5. The 14th Amendment to the Constitution reads: "Nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.", Is it prudent reasoning for me to believe that those words are "PROCESS" of law by the Constitution?

PROCESS: Procedure for employing constitutionally established rights. (Explanation follows question 13).

6. Does "Due Process" in above quote infer that there is a "RIGHT TO PROSECUTE" established by the Constitution?

7. Would this inferred "right to prosecute" be weighed as "process" of the 14th Amendment?

8. If the "right to prosecute" is used to accomplish anything improper of the right, Would that be "ABUSE OF THE RIGHT TO PROSECUTE"?

9. Would "malicious prosecution" be proper use of the "right to prosecute"?

10. Would "malicious prosecution" be proper use of "office" of government?

11. With "right to prosecute" established "process" of Constitution and, "malicious prosecution" improver use of that process, Would it be an "ABUSE OF PROCESS"?

12. Would "malicious prosecution" by government be "Misuse of Office"?

13. When government misuses rights established to it by process of the Constitution, Is it prudent reasoning for me to believe that the doing was both "MISUSE OF OFFICE" and "ABUSE OF PROCESS"?

The Questions 5 thru 13 are substantial because: Without valid law so permitting, The Courts, here, have adopted, as law of this State, meanings to terms that do not meet proper standards for the terms. BY THE QUESTIONS, it will be

seen that when government does acts of "malicious prosecution" such acts have to be by MISUSE OF OFFICE and ABUSE OF PROCESS. The "right to prosecute" is directly established by PROCESS set in the Constitution. Certainly, "malicious prosecution" would be a MISUSE of the "right to prosecute" and fall into the wholeness of meaning to the term "ABUSE OF PROCESS". The City's corrupt fraudulence and betrayal of public trust, that took place in its "False Prosecution" of me, was that of MISUSING its "right to prosecute". It was action differeing and worse than the "ill-will" of "malicious", but it was done by the MISUSE OF OFFICE and ABUSE OF PROCESS. This would be so because each MISUSE of the "right to prosecute", by government, has to be a "Misuse of Office" and, done by "Abusing Process Rights" established by the Constitution.

The Courts of this State, in adopting court decisions as law of the State, is simply that of the so-called "Judicial Legislation". Courts are to act under law, not the making of law. Since the courts are limited to making determinations under laws, this so-called "Judicial Legislation" is as invalid as any measures enacted by the Legislature without grant of authority. By the courts of this State using generated court terms as law to deprive me of my inviolate rights, the courts were also generating repugnance to the Constitution. The statutes, RCW 4.04.010 and RCW's of Title 5, Chapter 24 (Appendix "D"), prescribe to this "judicial legislation" and by so doing, they are also repugnant to the Constitution in its guarantee of Due Process and Equal

Protection to citizens as exist in valid law. The statutes are also invalid by lack of grant of authority. (Appendix "E").

14. As a citizen of the United States, when I invoke the inviolate rights set in valid laws of the State, can the Courts of the State lawfully deprive me those rights?

15. Can a Judge of the courts of Washington legally obtain jurisdiction by statutes enacted beyond grant of authority?

"Due Process" by my inviolate rights (Appendix "E") approved by Congress (Appendix "G") set "trial" (unconditioned) to jury: Precluding the judge from any determination (He shall declare the law, Appendix "E"), and also precluding the "Common Law" and the "Uniform Judicial Notice and Foreign Laws Act" (Appendix "D"). Dismissal of my cause by acting under statutes of APPENDIX "D" (Enacted without authority of State Constitution, Appendix "E"), which could not convey legal jurisdiction, placed the Judge in direct repugnance to the "Due Process" and "Equal Protection" Clauses of the 14th Amendment to the Constitution.

16. When valid law clearly states the lapse of time to the maturing of a right, ending the life of an adverse right in which no effort was made to cloud the maturing right, Is the mature unclouded right secure from legal clouding by the adverse ended right?

17. Does the "Due Process" and "Equal Protection" clauses in the 14th Amendment of the Constitution protect rights of mine by a valid law in the State when my rights do not overlap those of the adverse party and are clearly stated?

QUESTIONS 16 and 17 are substantial because the State Court's Opinion says: "THE PLAINTIFF DOES NOT CITE ANY LEGAL SUPPORT FOR THIS CONTENTION AND WE ARE UNABLE TO FIND ANY" (Page XIII) (Tr. 0103). This seeking legal authority would be by the invalid statutes of the RCW's in Chapter 5.24 of Title 5 (Appendix "D"). The Court's reliance upon those statutes, enacted without grant of authority (Appendix "E"), instead of looking at the clear wording of the City Charter Law (Appendix "F"), deprived me the "Due Process" and "Equal Protection" as due me in that City Law: This was repugnance to the Fourteenth Amendment to the Constitution, protecting to me those very rights.

18. When an act, under color of law, makes indispensibly necessary another act of legal nature to establish legal claim, Does the latter act, lawfully conducted, control?

19. May the Courts, of the State of Washington, erect barriers around unlawful acts in such a way that no claim filed in the time they set would have legal usefulness at the time of filing?

QUESTIONS 18 and 19 are substantial because laws of the City Charter (Appendix "F"), required me to "Accurately locate and describe

the defect that caused my injury." "ACCURACY" meant each part forming the whole in the City falsely prosecuting me. "ACCURACY" meant "EACH" succeeding part as additional structure supporting the first offense; thereby, an enlarging of that offense.

> Invalidation of records of the lower courts was a thing indispensibly necessary for any claim by me to have usefulness: This invalidation could only come by the Final Judgment of the State Supreme Court. Action upon a claim I needed to file would have been useless in the court that held me convicted and treated false charges as true. By City Charter Law, I had to show by what method and from what offices I had been falsely charged and falsely convicted by the City. It stands to reason that the Final Judgment was indispensibly necessary for clearing County Records of material barring useful action upon my claim conforming to City Charter Law.

Barriers, by Judicial Legislation, have been erected by the State Courts to useful action upon claims at the time they set for filing. Appendixes "A" & "B" show them treating judgments as law of this State adverse to valid laws. This is direct repugnance to the Constitution in that it has deprived me the "Due Process" and "Equal Protection" in valid laws guaranteed to me by the Constitution.

20. In my alleging "Wilfulness and Knowledge of Falseness and Damage", Would these constitute issues of fact?

The Court's "ADOPTION" (Opinion, Page XII) over State Laws approved by Congress would be a type of judicial legislation repugnant to the Constitution when it guarantees me "Due Process" and "Equal Protection" in valid laws.

21. May the Courts of this State hold me responsible for lapse of time through court action, not of my making or of my control, which was caused by court negligence and CRIMINAL NONFEASANCE by the City?

QUESTION 21 is substantial because the State Courts, in holding me responsible for the lapse of time from December 20, 1961 (time of initial act of City against me) to September 13, 1963 (time of Final Judgment by State High Court), were acting under invalid statutes (Appendix "D") and, applying judgments of other states as laws here by the route of judicial legislation.

Additionally, the High Court was negligent even in that cause: My Brief, carrying pictures of the lane markings, showed that the City had knowledge of its falseness, and it was in possession of the Court 7 months before that hearing; at the hearing (Appendixes "H" & "I"), the Court pressed the City into admitting factors showing that it had pursued its course in falseness; still, it was another 7 months before the Final Judgment was rendered (Opinion shows the Court holding me responsible for its own negligence).

Criminal Nonfeasance by the City was there for it had the duty to truthfully present evidence before the trial court and duty to speak truthfully before the High Court instead of using

subterfuge. BY ITS KNOWLEDGE, IT HAD THE DUTY OF ENDING ITS PURSUIT EVERY MOMENT FROM THE BEGINNING TO THE ENDING OF THE CASE. I had no control over any of the lapse of time. (Tr. 0088 Page 2, (e) & (f).

22. After enactment, Washington's Constitution was approved by Congress. It was never contained, as State Law, any inclusion of the Common Law or grant that it be enacted into its laws, or grant to make judgments of other states the rulings of this State. But the legislature has enacted such statutes in extremely vague language tieing State Courts and persons therein to such measures: They have been used to deprive me rights by valid laws approved by Congress. Would these invalid statutes, by their use, be repugnant to the "Due Process" and Equal Protection" in clauses of the 14th Amendment to the Constitution?

(Appendixes "A", "B", "C", "D", "E", "F" & "G")

CONCLUSION

The Questions herein, with presentation of support, Not only show need of removing invalid statutes and judicial legislation to protect my inviolate rights, They show the need of raising quality of courts below. Appendixes "H", "I", "J" & "K" show the spread of interest in my cause: Clippings were mailed me from Coast to Coast. Plenary consideration is also needed to comply with purposes ordained when the Constitution was established. It is essential to hold jurisdiction to valid laws. In true sense, the using of judgments of one state, arbitrarily, as

decision of another, is not judicial determination. Inequalities are not protection by law, and judicial legislation should not supplant the Constitution.

Respectfully submitted

Charles A. Nave
850 Northeast 55th Street
Seattle, Washington - 98105

S/ CHARLES A. NAVE
Charles A. Nave
Appellant

APPENDIX "A"

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CHARLES A. NAVE, Appellant	)	NO. 38144
v.	)	
	)	Department One
CITY OF SEATTLE, Respondent	)	Filed June 9, 1966

WARD, J. * - The initial incident which gave rise to this action occurred on December 20, 1961, at which time the plaintiff Charles A. Nave was arrested and charged with the violation of a traffic ordinance of the City of Seattle. He was also charged with resisting arrest in violation of another city ordinance. A somewhat detailed recital of the facts resulting in Mr. Nave's arrest are set out in the opinion of this court in Seattle v Nave, 62 Wn. 2d 446, 383 P. 2d 491 (1963). Mr. Nave was convicted in the City of

(continued next page)

APPELLANT'S COMMENTS: Above opinion failed to note that compulsory turns were designated by lane markings of "RIGHT ONLY" while in preceding blocks the markings were "RIGHT TURN LANE"—it instructing that at some point ahead would be a compulsory turn marked "RIGHT ONLY". Opinion was wrong: As to where the officer was parked; where he first saw

* Judge Ward is serving as a judge pro tempore of the Supreme Court pursuant to Art. 4, Sec. 2 (a) (Amendment 38) State Constitution.

me; that I refused to state occupation (My work was in several fields of independent effort that required no specific listing); and, that I started toward my house.

Opinion Continued

Seattle Municipal Court on both charges. He appealed to the Superior Court of King County and, on a trial de novo before the court sitting without a jury, was convicted again on both charges. On appeal to this court, however, the judgment and sentence on both charges was reversed and the city's complaint against Mr. Nave was dismissed. The remittitur from the Supreme Court was filed on September 13, 1963.

On December 6, 1963, the plaintiff filed a claim against the City of Seattle with the city clerk, followed by a supplemental claim on December 10, 1963.

On February 10, 1964, Plaintiff commenced action seeking recovery of damages from the City of Seattle in the sum of $3,355,200, and "additional general damages as due him, computed at the compounded monthly rate of (10) ten percent on the $3,355,200 for each additional month from December 20, 1963, till the date of final settlement.

Both Mr. Nave and the City of Seattle filed a demand for a jury trial and the case was assigned for trial on January 27, 1965. Before trial date, the City of Seattle presented to the court its motion for summary judgment seeking dismissal of the plaintiff's action solely on the contention that the plaintiff's claim against the city was not filed within 90 days as required by RCW 35.31.010.[1]

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1. The pertinent portion of Laws of 1957, Chapter 224, Sec. 2, in effect when the motion for

The City's motion for summary judgment was granted and an order and memorandum decision in writing was filed on January 25, 1965, dismissing the plaintiff's action, from which this appeal is taken.

It is the plaintiff's contention that his claim for damages was timely filed. The governing statute requires that a claim for damages be filed within 90 days "from the date the damage occurred or the injury was sustained." Plaintiff claims that his injury and damage continued up to the date the remittitur was filed in King County on September 13, 1963, and that the filing on his claims on December 6, and December 10, 1963, was therefore timely.

The plaintiff has asserted several times in his brief and in oral argument that he does not predicate his claim against the city on any theory of malicious prosecution.[2]

If the plaintiff had been able to maintain his action as one for malicious prosecution, the claim against the city would have been timely filed.

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summary judgment was heard, follows:

"All claims for damages against any city of the first class must be filed with the city clerk or other proper officer within ninety days from the date that the damage occurred or the injury was sustained: Provided, That claims for damages arising from an alleged defective sidewalk must be filed within thirty days from the date the damage occurred or the injury was sustained."

2. It is stated in plaintiff's brief: "Appellant took particular care that "Malicious Prosecution" not be alleged. Appellant also took particular

APPELLANT'S COMMENTS: Seattle Charter Law (Appendix "F") reads: " . claims . . must accurately locate and describe the defect." To meet this requirement I had to show the defect properly: It was corruptness and fraudulence—not ill-will (malice); Perjury and other improprieties in addition to denial of due process brought my conviction in Traffic Court; Conviction came by conspiracy and perjury in the Superior Court (Rank improprieties also existed from the bench); there were deliberate lies before the Supreme Court; Duty was shunned by CRIMINAL NONFEASANCE; I accurately located and described each defect as it stood a part of the whole corrupt fraudulent prosecution of me by the City. The Final Judgment was not defect but evidence that needed no allegations, and needed by me the same as in "malicious prosecution", for all prior court records treated the false as true prosecution.

Opinion Continued:

> Ordinarily an action for malicious prosecution accrues at, and limitations run from, the time of termination of the proceedings. An action for false imprisonment accrues at, and the statute of

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care not to allege: "that the proceedings terminated on the merits in favor of the plaintiff." Appellant did not allege "Malicious Prosecution" for the very reason given in Judge Wright's definition of it as set out in his Memorandum Decision: 'begun in malice without probable cause to believe it can succeed, and finally ends in failure.

limitations runs from, the termination of the imprisonment. 54 C.J.S. Limitations of Actions Sec. 175, p. 144.

Neither may he rely on a claim of unlawful arrest and be timely in the filing of his claim. A case which is factually very similar to the case sub judici is Belflower v. Blackshere, 281 P.2d 423 (Okla), 49 A. L. R. 2d 917 (1955). There, the issue was whether the cause of action accrued when the arrested was released on bail, or upon the final dismissal of the criminal charges against him. The court concluded that the cause of action accrued on the date of his release on bail. This case is followed by an annotation, 49 A. L. R. 2d 922 "When statute of limitations begins to run against action for false imprisonment or false arrest." The rule of the Oklahoma court finds almost unanimous support in jurisdictions which have considered the question.

See, Mobley v. Broome, 248 N. C. 54, 102 S. E. 2d 407 (1958), and Jedzierowski v. Jordon, 157 Me. 352, 172 A. 2d 636 (1961), and Annotation, 25 A. L. R. 1518.

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APPELLANT'S COMMENTS: Neither American Law Reports or Corpus Juris Secundum, nor the decisions of Oklahoma, North Carolina or Maine are valid laws of the State of Washington by statute or by the will of the people of the State. Presumably, the above rulings were applied to my cause under the enacted statutes on "common law" which are invalid (See Appendixes "D" & "E"). The wording of the Opinion does not show a decision upon the merits of my cause, but by arbitrarily, capriciously and injudiciously applying "UNDUE PROCESS" set in statutes invalid by

the fact that they were enacted beyond the grant of authority and adverse to enactments by the will of the people of the State and guaranteed by protective clauses of Sec. 1 of the 14th Amendment.

To limit me to the "minor" term of malicious (ill-will) prosecution when my cause is in (BETRAYAL OF PUBLIC TRUST IN CORRUPT PROSECUTION OF AN EXPANDING NATURE), a "major" in false prosecution, would not permit me to "accurately" fulfill the requirements by the City's Charter Law.

The requirements upon the State Court were that it examine my cause on its merits: The examination would have to be under the valid laws of the State. By the court wilfully adhering to the invalid statutes, it was evading duties in valid laws mandatory by both State and National Law (Appendixes "E" & "G").

The valid laws of the State have the approval of Congress, while the using of the invalid statutes is that of flaunting the will of the people of the State and a repugnance to the mandates of "Due Process" and "Equal Protection" of the 14th Amendment which guarantees to each person in jurisdiction of the State the full benefits in each valid law of the State.

The court, here, has directly evaded its duty and ignored the fact that I invoked my citizenship rights.

Opinion Continued:

The plaintiff insists, however, that his claim is based, not primarily upon the illegal arrest of December 20, 1961, but rather upon "misuse of office and/or abuse of process" on the part of the city officials of the City of Seattle. He itemizes in his brief 15 acts which he claims constitute

such abuse of process. This series of acts ~~beings~~ begins with his unlawful arrest on December 20, 1961, runs the full gamut of the intervening litigation, and concludes with No. 15 "using material in this court which it knew to be false as it asked this court to affirm the conviction that it knew to be wrong." Plaintiff does not set out the date of No. 15, but we find that the former appeal in Seattle v Nave, supra, was argued in this court on February 5, 1963. The plaintiff concludes, however, that his injury was a "Continuous Accelerating Invasion of his Rights" and that actionable injury was sustained by him up to September 13, 1963. We do not agree.

(continued page IX)

APPELLANT'S COMMENTS: In this preceding phase of the Opinion, an important factor is overlooked:

Constitutional Government is entirely by "PROCESS" and "OFFICE". Its only rights of existence is by process, and, its only means of performance is by office. Two sides are necessary to the establishing of a right—The process of "equal protection" is set in the 14th Amendment; as is also that process known as "Due Process". By these two processes in the Constitution, we find the right to prosecute: "BY DUE PROCESS LIFE, LIBERTY AND PROPERTY MAY BE TAKEN". Its counterpart is "Nor shall any State deprive any person of life, liberty or property, without due process of law."

To prosecute, is a right established by the Constitution. This "right to prosecute" is PROCESS of the Constitution. Any misusing of this established "right to prosecute" is a perversion

of such right set by the Constitution, or, "An Abuse of the Right to Prosecute"; also: "ABUSE OF PROCESS" set by the Constitution.

At base, "malicious prosecution" is "ABUSE OF PROCESS". Should the governing body be charged with "malicious prosecution", the charge would also constitute that of "MISUSE OF OFFICE".

Every form of falseness by government has to lay within scope of the terms: MISUSE OF OFFICE and ABUSE OF PROCESS.

By the Court leaning upon the invalid statutes instead of delving into the merits of my cause by the full meaning contained in MISUSE OF OFFICE and ABUSE OF PROCESS, the court placed itself and the State in a position repugnant to the protective clauses set in Section 1 of the 14th Amendment of the Constitution.

Take the lopsided picture the court has presented: I was falsely arrested on December 20, 1961; twice convicted by March 5, 1962; yet, the court says, I must make claims against the City on false arrest by March 20, 1962—a time when I stood convicted in the very courts where any action on the claims would have to be held.

The opinion completely evades these facts: That the City was in the act of "False Prosecution" on the day that it entered false material durin the hearing; That every act of falseness by the City was an expansion of its wrongs; That the City had it within her power to end its falseness-and duty bound to so do—which it could have done at any point between December 20, 1961 and September 13, 1963—I had no way of stopping this criminal negligence.

Opinion Continued:

Even if we should assume that No. 15, above, is an act constituting abuse of process, the plaintiff does not claim any act of injury done to him by the city subsequent to February 5, 1963. Between that date and September 13, 1963, while awaiting the decision of the supreme court, the plaintiff no doubt suffered anxiety ranging upward to mental suffering. But mental suffering following injury is not a continuing form of damage which tolls the accrueing of a cause of action.

(continued next page)

APPELLANT'S COMMENTS: Above words of Opinion ignore these facts: MY CLAIM, COMPLAINT AND BRIEF ALL SHOW CHARGES OF WILFULL OMISSION OF DUTY BY CRIMINAL NONFEASANCE. There is a display of inconsistency in the fact: That mental suffering, damage and dates would not have been any different had I charged "malicious prosecution" (a misuse of office and abuse of process) under which the court says that it would have reversed—but it affirms when I charge "misuse of office and abuse of process" along with also a showing it comprised "False Prosecution" wilfully and knowledgeably done by criminal acts in fraudulence and in corruption. The court has evaded the fact that its Opinion is based upon material gleaned by the application of INVALID STATUTES. It has evaded the fact that I invoked my inviolate right to trial by jury on all issues as set in the State Constitution and guaranteed by the "Due Process" and "Equal Protection" clauses of the 14th Amendment. It evades my experienced discrepancies by trial judges that made my jury trial rights essential to me.

Opinion continued:

> An action for abuse of process has been held to come within the provisions of a statute of limitations applicable to "injuries done to the person." The statute begins to run against such an action from the termination of the acts which constitute the abuse complained of. (Italics ours.) 1 Am. Jur. 2d Abuse of Process Sec. 24, p. 269.
>
> The cause of action for abuse of process is complete as soon as the acts complained of are committed. The remedy for a malicious use of process, however, is not available until the termination of the original proceeding. 72 C.J.S. Process Sec. 124c, p. 1199.

See, also, 72 C.J.S. Process Sec. 119, p. 1188; A.L.R. 2d 322.

Malicious use of process is essentially the same as action for malicious prosecution. Golden Commissary Corp. v Shipley, 157 A. 2d 810 (D. C. Mun. Ct. of Appeals 1960).

Inasmuch as the plaintiff recites no act of misuse of office and/or abuse of process on the part of the city representative subsequent to February 5, 1963, his filing of claim in December, 1963, was untimely. The trial court was correct in its determination that plaintiff's claim against the city was not timely filed and in granting dismissal upon motion for summary judgment.

(continued page XII)

APPELLANT'S COMMENTS: Besides this above being purely by invalid statutes, the definitions of ABUSE OF PROCESS by the common law, as set out, do not reach established process by the

Constitution; nor do they contain a provision of abuse of process "NONFEASANCE" wilfully committed: Such as the City wilfully allowing time to be consumed by court procedure in its knowledge that its action against me was corruptly false. (Tr. 0088, page 2, (e) & (f)).

By the City's wilful acts of "Nonfeasance" duly charged in the complaint, there was no other escape from the false conviction and false charges other than reversal and ordered dismissal as false.

> No law of justice can condone a governmental body erecting barriers around unlawful acts in such a way that no claim filed in the time they set would have legal usefulness at the time they set for filing. Validity of my claim was dependent upon judgments of records; therefore, the 90-days must be from the day judgment gives validity to the claim in parts that are indispensibly necessary to that validity. No other reasoning could be suitable to justice.

Searching "Fundamental Principles" one finds this rule: When an act, under color of law, makes indispensibly necessary another act of legal nature to establish legal claim, the latter act, lawfully applied, controls.

The Opinion, in upholding the invalid determination by the trial court, also failed to take cognizance and give consideration to negligence by the State Supreme Court Following the hearing of February 5, 1963: Material was before the court for 7 months before that hearing that definitely showed the corruptness by the City; News items (Appendixes "H" & "I") following the hearing show

the court obtaining response from the City whereby the corruptness could no longer be uncertain by the court; still, the State Supreme Court's Final Judgment did not come down until September 13, 1963, AND THAT COURT WOULD HOLD ME RESPONSIBLE FOR ITS OWN NEGLIGENCE.

Opinion continued:

The plaintiff claims his right to a jury trial guaranteed in civil actions under U. S. Const. Amend. 7, and by Wash. Const. Art. 1, Sec. 21 were infringed by the summary judgment proceedings.

(continued below)

PLAINTIFF'S COMMENTS: I never made any claims to trial under the 7th Amendment to the Constitution. I did invoke my rights to trial by jury on all issues of trial as set in Article I, Section 21 of the State Constitution as is guaranteed by the 14th Amendment in its section 1 to each citizen of the United States and each person under the jurisdiction of a State.

Opinion continued:

This exact contention was before the United States Courts of Appeals, 7th circuit, in United States v Stangland, 242 F. 2d 843 (1957) and was rejected upon the authority of the decision of the United States Supreme Court in Fidelity & Deposit Co. of Maryland v United States, 187 U.S. 315, 47 L. Ed. 194, 23 Sup. Ct. 120 (1902). This court has adopted the same reasoning in proceedings where there are no issues of fact to be determined by the jury. In re Brandon v Webb, 23 Wn 2d 155, 160 P.2d 529 (1945).

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APPELLANT'S COMMENTS: 1. There are issues of fact. 2. It is beyond the authority of the State Court to adopt the common law; Congress approved the State's Constitution sans the common law and to change it is the will of the people. 3. The two federal cases cited are under the 7th Amendment while my cause was invoked under Art I, Sec. 21 of the State Constitution guaranteed by the United States.

The Brandon v Webb case referred to could not apply for it is repugnant to both the State and the Federal Constitution in its abridging of State rights guaranteed by the 14th Amendment.

Opinion continued:

Plaintiff's further assignment of error presents a novel and interesting legal theory. Article 4 Section 24 of the Charter of the City of Seattle provides:

> "No action shall be maintained against the city for any claim for damages until the same has been presented to the city council and sixty days have elapsed after such presentation."

It is plaintiff's contention that, during such 60-day period, the city had a duty to point out to the claimant any legal defect with respect to the filing of his claim, and that if the 60-day period passes without such affirmative action on the part of the city, it may not thereafter raise the issue of timeliness. The plaintiff does not cite any legal support for this contention and we are unable to find any.

The judgment is affirmed.

WARD J. Pro. Tem.

WE CONCUR:

ROSELLINI, C. J.

HILL, J.

OTT, J.

HUNTER, J.

APPELLANT'S COMMENTS: The above Charter Law sets meets and bounds of "rights" in "action" and "no-action" in such clear language that it needs no other authority. Any determination would only be on the question of infringement of rights set to each party. Had the City put a cloud upon my claim before action, that cloud would extend into the complaint. My complaint was built upon my claim as it stood, unclouded, at the ending of the 60 days. This law provides Equal Protection; its Due Process is very clearly stated. The Due Process and Equal Protection of this law is guaranteed by the 14th Amendment of the Constitution, but the State Courts, by determinations under invalid statutes, have deprived me the Equal Protection in this Charter Law that is guaranteed to me.

APPENDIX "B"

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

CHARLES A. NAVE,	)	No. 615745
Plaintiff	)	MEMORANDUM
v	)	DECISION AND
CITY OF SEATTLE,	)	FINAL ORDER
Defendant	)	OF DISMISSAL

This matter came before the court on January 20, 1965 upon the defendant's motion for Summary Judgment of Dismissal. The court heard oral argument and read the brief of the defendant City. The plaintiff submitted no legal authorities. The court granted the motion of the defendant City and entered its Order Granting Summary Judgment.

(continued below)

APPELLANT'S COMMENTS: The "RIGHTS" that I stood upon were by clearly worded laws and needed no other authority. The Judge ignored my brief containing my clearly set out rights.

Memorandum Decision Continued:

Thereafter the court re-examined the file, and particularly the Complaint, with a view to the preparation of a Memorandum Decision. Throughout the oral argument on January 20, it appeared that the plaintiff did not comprehend the legal principles involved or the ruling of the court. He has at all times appeared pro se.

On January 21, 1965, the court directed a letter to the parties advising that a Memorandum

Decision and Supplemental Order would be entered and that the prior order of January 20 would be held in abeyance pending the memorandum decision.

The cause then came before the court on Monday, January 25, 1965, and further argument was heard. The defendant City of Seattle supplied its Memorandum of Authority, which was duly considered. The plaintiff submitted no brief, but argued in his own behalf. The court indicated that it was concerned only with the question of: Has the plaintiff alleged a cause of action for malicious prosecution. The court indicated that it was satisfied that any other cause of action stated in the Complaint was barred because the plaintiff had not filed a claim for damages within the time required by law.

(continued next page)

APPELLANT'S COMMENTS: Here the Judge limits me to the question of "malicious prosecution". An idea of ill-will toward me to vex and injure me. The cause didn't start in that field. It started in the City illegally imposing a tax upon me as a motorist in the form of bail by the giving of citation contrary to law and the markings in the lanes of the City's street. Vexation and injury was no less present, but the intent lay deeper in the corrupt action the City carried on to obtain unlawfully imposed bail tax which my conviction gave it court license to impose and collect. A sizeable amount of this wrongfully imposed tax was from citations in front of my home which was a daily occurrence carried on by 4 officers placed there after my conviction. Additionally I became the object of being trailed by the police because I had exposed the corruption. But the intent was

in maintaining its court license whereby young officers were trained and a wrongful revenue gained. I was the scape-goat.

Memorandum Decision continued:

The court directed to the plaintiff's attention the authorities cited by the defendant City, and particularly the six requirements set forth in Nichols v Severtsen, 39, Wn. (2d) 836, at 837. Again the court went through the Complaint and invited the plaintiff to point out where the six elements were alleged. He was unable to do so and argued that he had a right to a jury trial because he had paid a jury fee, had subpoenas issued for witnesses, and because the Superior Court of King County had entered into a contract with the plaintiff to supply a jury.

(continued next page)

APPELLANT'S COMMENTS: Here the Judge's ridicule is because I told him that: I did not have to show malicious prosecution; He did not have jurisdiction; The City was in Bad Faith; My signature was even forged on papers in police files; As a citizen of the United States I was entitled to a trial by jury on all issues by State Law when I had not waived it, I had subpoenas out and was standing on my rights; The court had set unconstitutional conditions upon me for jury trial that amounted to contract.

The Judge has been operating by unconstitutional statutes so long that he was surprised and offended that I would challenge his authority. He seemed not to understand that there was a Constitution of the State that set laws or I had rights other than he would grant. He only wanted to hear what some other judge had said and wasn't

interested in construction of valid laws. In each proceeding, he supplanted the City attorney with himself in all ways except; "THANK YOU YOUR HONOR."

Memorandum Decision continued:

An action for malicious prosecution is an action for damages brought by one against whom a criminal prosecution, civil suit or other legal proceeding has been instituted maliciously and without probable cause, after the termination of such prosecution or other proceeding in favor of the defendant therein. The gist of the action is the putting of legal process in force regularly for the mere purpose of vexation or injury. As applied to the original proceedings, a malicious prosecution may be briefly defined as one that is begun in malice without probable cause to believe it can succeed, and finally ends in failure, 34 Am. Jr. 703, Malicious Prosecution, Sec. 2.

(continued below)

APPELLANT'S COMMENTS: This inadequate definition to the covering all types of "False Prosecution", does not cover the corrupt and fraudulent prosecution done to me so as to maintain fraud upon the public by the betrayal of public trust. Also: American Jurisprudence in its voluminous form has not been legally enacted as law of the State of Washington; its application has been by invalid statutes.

Memorandum Decision Continued:

It is frequently said that the action for malicious prosecution is not favored in law. Hence, as has been frequently pointed out, the action has been hedged about by limitations more stringent

than those in the case of almost any other act causing damage to another, and the courts have allowed recovery only when the requirements limiting it have been fully complied with. 34 Am. Jur. 705, Malicious Prosecution, Sec. 5.

The disfavor with which the action is looked upon is especially marked in cases where the suit is being brought for the institution of criminal proceedings against the plaintiff, since public policy favors the exposure of crime, which a recovery against a prosecutor obviously tends to discourage.

(continued below)

APPELLANT'S COMMENTS: No better test of public policy can be had than by adhering to the law and allowing a jury, unbiased, hear the issues and decide upon the merits. Normally, judges and prosecutors are in too close contact for the public to obtain full information of corruptness.

Memorandum Decision continued:

The case of Nichols v Severtsen, 39, Wn.(2d) 836, states certain principles governing actions for damages for malicious prosecution. The court said:

> "To support an action of this nature, the complaint must allege (1) that a prosecution was commenced against the plaintiff; (2) that it was instituted by the defendant; (3) that it was malicious; (4) that it was without probable cause; (5) that the proceeding terminated on the merits in favor of plaintiff or was abandoned; and (6) that the plaintiff suffered injury or damage as a result of the prosecution."

To the foregoing six requirements there might be added a seventh in an action against the City of Seattle in view of the charter provision relied upon by the City. The charter provision and RCW 35.31.010 preclude the filing of claims for damages against cities of the first class, unless claims have been filed within ninety days from the date that the damage occurred or the injuries sustained. Therefore, it might be said that the plaintiff in this case must further allege in his Complaint: That he had duly filed a claim within ninety days from the termination of the prior proceeding on the merits in his favor.

It is the view of this court that the Complaint does not allege a cause of action for malicious prosecution. It does not spell out the six elements referred to in Nichols v Severtsen, nor the seventh requirement that attaches by operation of the charter provision and the statute.

As to other allegations of the Complaint alleging miscellaneous tortious conduct, it is clear from the dates given by the plaintiff that his action is barred by the aforementioned statue and charter provision.

It is therefore ORDERED that this action be and it is dismissed.

SIGNED and FILED January 25, 1965

EUGENE A. WRIGHT
JUDGE

Copies mailed:
Mr. Charles A. Nave
850 N.E. 55th Street
Seattle, Washington 98105

Mr. Charles R. Nelson
Office of the Corporation Counsel
Seattle Municipal Building
Seattle, Washington 98104

APPELLANT'S COMMENTS: The Judge ignored: My inviolate rights set in the State Constitution and guaranteed by the Federal Constitution which I invoked; clearly worded Due Process and Equal Protection set in the Charter Law of the City; and administered to the corruptness and the deceitfulness of the City under invalid statutes to deprive me an unbiased hearing before a jury.

APPENDIX "C"

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

CHARLES A. NAVE, Appellant v CITY OF SEATTLE, Respondent	REMITTITUR No. 38144 King County No. 615745

This is to certify that the opinion of the Supreme Court of the State of Washington filed on JUNE 9, 1966, became the final judgment of this court in the above entitled case on JULY 28, 1966, This cause is remitted to the superior court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule 55 on Appeal, costs are taxed as follows:

Two Hundred Thirty-one and 44/100 ($231.44) Dollars in favor of the respondent and against appellant and his cash bond.

The Petition for Rehearing was Denied by an Order filed July 28, 1966.

cc:
Court Reporter
Mr. Charles A. Nave
Hon. A. L. Newbould
Mr. Charles R. Nelson

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Olympia, this 28th day of JULY, A. D. 1966.

Sgd. William M. Lowry
WILLIAM M. LOWRY
Clerk of the Supreme Court,
State of Washington

APPENDIX "D"

REVISED CODE OF WASHINGTON - INVALID STATUTES:

RCW 4.44.080 - QUESTIONS OF LAW TO BE DECIDED BY COURT:

> "All questions of law including the admisibility of testimony, the facts preliminary to such, admission, and the construction of statutes and other writings, and other rules of evidence, are to be decided by court, and all discussions of law addressed to it.";

RCW 4.44.090 QUESTIONS OF FACT FOR JURY:

> "All questions of fact other than those mentioned in RCW 4.44.080, shall be decided by the jury, and all evidence thereon addressed to them.";

RCW 4.44.095 RIGHT TO JURY TRIAL:

> "Right to jury trial upon an issue of fact in an action at law, see RCW 4.48.010.";

RCW 4.44.100 - JURY TRIAL - FEE - WAIVER:

> "In all civil cases triable by a jury in the superior court any party to the action may, at or prior to the time the case is called to be set for trial, serve upon the opposite party or his attorney, and file with the clerk of the court a statement of himself, or attorney, that he elects to have such case tried by jury. Unless such statement is filed and a jury fee paid as provided by law, the parties shall be deemed to have waived trial by jury, and consented to a trial by the court: Provided, That in the superior courts of counties of the first class such parties

shall serve and file such statement, in the manner herein provided, at any time not later than two days before the time the case is called to be set for trial.";

RCW 4.44.110 - JURY FEE PART OF TAXABLE COSTS:

"The jury fee paid by the party demanding a trial by jury shall be a part of the taxable costs in such action.";

RCW 4.48.010 - REFERENCE BY CONSENT - RIGHT TO JURY TRIAL, that part reading:

"but either party shall have the right in an action at law, ~~but~~ UPON an issue of fact, to demand a trial by jury.";

RCW 4.04.010 - EXTENT TO WHICH COMMON LAW PREVAILS:

"The common law, so far as it is not inconsistent with the Constitution and laws of the United States, of the State of Washington, nor incompatible with the institutions and conditions of society in this State, shall be the rule of decision in all courts of this State.";

RCW 36.18.020 - CLERKS FEES - CLERKS OF SUPERIOR COURT SHALL COLLECT THE FOLLOWING FEES FOR THEIR OFFICIAL SERVICES:

"(5): The party filing a demand for jury in a civil action, shall pay, at the time of filing, a fee of $25.00, and in the event that the case is settled out of court not less than twenty-four hours prior to the time that such case is called to be heard upon trial, such fee shall be returned to such party by the clerk.";

RCW 5.24.010 - JUDICIAL NOTICE OF CONSTITUTION AND LAWS:

"Every court of this State shall take judicial notice of the constitution, common law, civil law, and statutes of every state, territory and other jurisdiction of the United States.";

RCW 5.24.020 - MANNER OF OBTAINING INFORMATION:

"The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.";

RCW 5.24.030 - DETERMINATION BY COURT - REVIEW:

"The determination of such laws shall be made by the court and not by the jury and shall be reviewable.";

RCW 5.24.040 - NECESSITY OF PLEADING FOREIGN LAWS:

"This chapter shall not be construed to relieve any party of the duty of hereafter pleading such laws where required under the law and practice of this state prior to the enactment hereof.";

RCW 5.24.050 - JURISDICTION EXCEPTED:

"The law of any jurisdiction other than a state, territory or other jurisdiction of the United States shall be an issue for the court, but shall not be subject to the foregoing provisions concerning judicial notice.";

RCW 5.24.060 - CONSTRUCTION OF CHAPTER:

"This chapter shall be so interpreted and construed as to effectuate its general

purpose to make uniform the law of those states which enact it.";

RCW 5.24.070 - SHORT TITLE:

"This chapter may be cited as the "Uniform Judicial Notice of Foreign Laws Act"."

APPELLANT'S COMMENTS: All the foregoing set out statutes in this APPENDIX "D" are invalid by the fact that they were enacted beyond grant of authority. In addition: They each have conditions that deprive persons in the jurisdiction of this State of rights set in valid laws of the State that are guaranteed by Section 1 of the 14th Amendment to the Constitution: Making them repugnant to the Constitution. State courts in using them deprived me of my rights.

APPENDIX "E"

REVISED CODE OF WASHINGTON: (A Valid State Statute)

RCW 4.44.010 - TRIAL DEFINED:

"A trial is the judicial examination of the issues between the parties, whether they are issues of law or of fact.";

WASHINGTON STATE CONSTITUTION: (Valid Laws)

Article I:

Section 1 - POLITICAL POWER:

"All political power is inherent in the people, and governments derive their just power from the consent of the governed, and are established to protect and maintain individual rights." (Emphasis added);

Section 21 - TRIAL BY JURY:

"The right of trial by jury shall remain inviolate, but the legislature may provide . . . for waiving of the jury in civil cases where the consent of the parties interested is given thereto.";

Section 29 - CONSTITUTION MANDATORY:

"The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.";

Article IV - THE JUDICIARY:

Section 16 - CHARGING JURIES:

"Judges . . . shall declare the law.";

Article XXIII - AMENDMENTS:

Section 1 - HOW MADE:

"Any amendment or amendments to this constitution . . . . . shall be . .

. . . submitted to the qualified electors of the State for their approval."

APPELLANT'S COMMENTS: In the foregoing set out valid laws in this APPENDIX "E" it will be seen:

1. "TRIAL" includes all issues between parties and, is in this undivided sense in "The right of trial by jury shall remain inviolate" unless consent is given to waiving it by the parties interested.
2. No "demand" or "fee" is required and, "Trial by Jury" is not tied to the common law or any authority given to the setting of these conditions: The legislature may provide for the waiving of jury.
3. The State was established to protect individual rights and the above inviolate right is mandatory upon the courts of the State of Washington: It is amendable only by the qualified electors.
4. Enactments of the qualified electors say: "Judge shall declare the law" in a jury trial.
5. The laws of APPENDIX "E" are not repugnant to the Constitution: They show that all statutes set out in APPENDIX "D" are invalid and, their application deprives of rights inviolate: This makes them repugnant to the Constitution in its guarantee of rights by its 14th Amendment in its Section 1 shown in APPENDIX "G".

APPENDIX "F"

REVISED CODE OF WASHINGTON: (A Valid State Statute)

RCW 35.31.010:

> "All claims for damages against any city of the first class must be filed with the city clerk or other proper officer within ninety days from the date that the damage occurred or the injury was sustained."

SEATTLE CITY CHARTER LAW:

Article IV, Section 24:

> " . . All claims for damages must accurately[1] locate and describe the defect that caused the injury, accurately describe the injury . . . contain itemes of damages claimed, and be sworn to by the claimant." (emphasis added)
>
> "No action[2] shall be maintained against the city for any claim until the same has been presented to the city council and sixty days have elapsed after such presentation." (emphasis added)

APPELLANT'S COMMENTS:

1. This demands particulars within the complete act of wilful falseness of prosecution. Only the City had the means of stopping its corrupt acts at points along the way, which it did not do, but wilfully extended and enlarged the injury and damage.

2. Right to action could not come into being until the rights in no-action ended. This law of Due Process provides Equal Protection in that the rights are by clear language. There is no need for determining its meets and bounds.

APPENDIX "G"

UNITED STATES CONSTITUTION - FOURTEENTH AMENDMENT:

Section 1:

". . . . No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

ENABLING ACT:

25 U.S. Statutes at Large, C. 180, P. 676:

"Be it enacted . . in congress assembled . . that the inhabitants of . . territory of . . Washington . . may become . . the State of . . Washington . . adopt the Constitution of the United States . . shall be, and are hereby, authorized to form constitution and state government . . not repugnant to the Constitution of the United States and the principles of the Declaration of Independence . . if constitution and government . . have been complied with . . shall be deemed admitted by congress into the Union." (Benjamin Harrison, President of the United States, proclaimed Washington a State of the Union November 11, 1889)

APPELLANT'S COMMENTS: The above portion of the Fourteenth Amendment makes valid laws of the State mandatory to each person therein. In its acceptance of Washington as a State, Congress accepted Article I, Sec. 21, of the State Constitution, and enforcible by Sec. 1, of the 14th Amendment.

Seattle Times 2-6-63

Motorist Argues Case in High Court

By RILL SCHEAR

A belief that "these things are wrong" has led a Seattle man to make a laborious legal climb to the State Supreme Court — on a $15 traffic conviction.

Charles A. Nave, 59, argued his own case yesterday in an appeal to a five-judge court in Olympia. He has no legal background; his education ended after one year of high school.

THE CONVICTION was for driving in the right lane from Northeast 61st to 55th Street in Roosevelt Way Northeast December 20, 1960. Nave had pulled into the driveway of his home at 850 N. E. 55th St., when Motorcycle Patrolman Bruce M. Johnson pulled up to cite him.

Nave said he had been driving in the lane because he intended to make a right turn. Officer Johnson said the lane could not be used for more than one block.

While writing the ticket, Johnson asked Nave his occupation. Nave declined to give it.

"I said my occupation had nothing to do with my driving," Nave explained.

Nave said Johnson then became angry and waved Nave's driver's license in his face, demanding to know his occupation.

THEN, NAVE SAID, Johnson started away as if to keep the license. Nave



CHARLES A. NAVE

stepped in front of him and took it away.

"He grabbed my arm and twisted it up behind my back," Nave said. "Then he booted me over to his motorcycle and pushed me down across it. He was just mad.

"I looked up at him and said: 'Officer, don't you think you had better reconsider your action?'

"You shut your mouth or I'll hit you across the face!' he said. 'You're a nut! You're a nut!"

The scene was witnessed by several neighbors.

Nave was arrested, his car was impounded — for being parked on the sidewalk—and he was released on bail. Traffic Judge Vernon Towne convicted him January 24, 1962, on the traffic charge and for resisting arrest. Superior Judge George Stutz upheld Towne March 5.

NEIGHBORS TESTIFIED in Nave's defense in both trials.

In court yesterday, the Associated Press reported Judge Frank Weaver asked James G. Leach, Seattle assistant city attorney, whether motorists must turn right at the first opportunity when the lane is marked "For Right Turn Only."

"It is not specified in writing," Leach said.

Judge Weaver then asked if it were required of a person being cited to give his occupation.

"It is not specified," Leach said.

Judge Robert Finley asked if Johnson had been disciplined.

"I'm not trying to defend the policeman," Leach said.

The court took the case under advisement.

NAVE PREPARED his own brief by reading examples of other briefs and by studying in a law library. He spent about $700 in the appeal.

Nave, a spare, gray-haired Seattle resident since 1928, said he had driven 45 years without a citation. He is self-employed.

"I have a very modest income," he said today. "I have many interests in life and many things I'd like to solve. I've done hundreds of experiments.

"The police are to be commended in many ways. But if things like this can happen to me, they must be happening to others. Somebody's got to stop them."

APPELLANT'S COMMENTS: My conviction gave a court meaning of "RIGHT ONLY" to lane markings of "RIGHT TURN LANE". The "RIGHT TURN LANE" marking was placed there to inform a compulsory right turn was ahead marked "RIGHT ONLY".

XXXI

SEATTLE POST INTELLIGENCER, February 6, 1963



CHARLES A. NAVE AND PAGES OF APPEAL BRIEF
Points To Photo Of Lurking Policemen
—(Post-Intelligencer Photo.)

VOL. CLXIII, NO. 158

Page 1 PT

BATTLE FOR DIGNITY:

$700 To Fight $15 Police Ticket

A mild-mannered little man, appealing for human dignity, told the State Supreme Court yesterday he was illegally ticketed and brutally treated by a Seattle traffic cop.

He is Charles A. Nave, 59, of 850 NE 55th St., a slight, graying man with no legal —and not much formal—education.

He faced five justices of the high court in Olympia, arguing his own case for reversal of a $15 traffic fine. Fighting the case has cost him more than $700. He was opposed by James G. Leach, assistant City Attorney of Seattle.

NAVE GAVE this version of a legal struggle that began Dec. 20, 1961 when he was accosted by motorcycle traffic officer Bruce M. Johnson, 8353-19th Ave, NW.

Johnson accused Nave of driving more than one block in the southbound right turn lane on the west side of Roosevelt Way NE. Nave contended his driving was in strict compliance with posted signs.

NAVE, whose car was parked in his own driveway at the time of his arrest, allowed Johnson to copy pertinent information from his driver's license. Nave said he had been driving 45 years with no previous arrests for moving violations. He said the officer became

(Continued Page 7, Column 2)

Continued next page

$700 Spent To Fight $15 Traffic Ticket

(Continued from Page 1)

abusive when he refused to list his occupation.

HE SAID Johnson refused to surrender Nave's driver's license unless Nave disclosed his occupation (he is a researcher). He said the traffic cop shook the license under his nose and Nave snatched it.

Nave, in subsequent testimony before Seattle Traffic Judge Vernon Towne, said the policeman twisted his arm behind his back, bent him over his motorcycle and kneed him repeatedly from behind.

Nave said:

"These things are wrong. Somebody's got to stop them."

He was convicted by Judge Towne Jan. 24, 1962. He appealed to Superior Court Judge George Stuntz, who upheld Judge Towne last March 5.

NAVE WENT to Olympia, obtained a sample appeal brief and used it as a model. He spent hours in the law library and more hours supporting his contentions with photographs. (One showed four Seattle traffic cops hiding on private property in efforts to trap motorists along Roosevelt Way NE.)

Nave's brief was so complete that Assistant Seattle City Attorney Leach referred to it yesterday before the State Supreme Court.

Justice Frank Weaver, inquiring into use of turn lanes, asked Leach if motorists must turn right at the first opportunity or only at points designated for compulsory turns. Leach said:

"It is not specified in writing."

Judge Weaver said:

"Apparently Seattle has a tolerance policy."

Leach pleaded:

"Please, Judge, don't say that."

Judge Weaver asked if a person is required to disclose his occupation. Leach said:

"It is not specified."

Nave told the five jurists Patrolman Johnson told him:

"'You shut your mouth, or I'll bust you right in the face.'"

He said he was making notes at police headquarters and the notes were grabbed away from him and a charge of resisting arrest was added to the traffic citation.

NAVE TOLD the high court he had asked permission to move his car from his driveway into his garage. He said Officer Johnson refused, ordered a tow truck and had it towed away, out of his driveway.

Judge Weaver asked Seattle's assistant City Attorney:

"How can you justify impounding a man's car in his own driveway?

Leach said:

"Perhaps it was injudicious."

Judge Weaver commented:

"That's an understatement."

Justice Robert Finley asked what disciplinary action had been taken against the police officer and Leach said:

"I'm not trying to defend the policeman." (Police records show that no disciplinary action had been taken. Johnson is now assigned to Wallingford.

Leach, explaining lane regulations to the high court, said the driving public had been informed of traffic plans through newspaper stories.

CHIEF JUSTICE Richard B. Ott asked:

"You mean you have to read the newspapers to find out what the law is?

Judge Finley then noted:

"This is probably the only country in the world where such a case could end up in the court of last resort."

Nave, in an out of court comment, said:

"Win or lose, I have made the good fight."

The $15 ticket has cost him more than $700.



MOTORIST'S PHOTO OF TRAFFIC POLICEMEN
Picture Shown To High Court

APPELLANT'S COMMENTS: My conviction gave ~~the~~ court license to above fraud. As traffic stalled, motorists pulled into the right lane going to my street which led to alternate route. They received tickets in front of my home. Police trailed me after my conviction.

THE TACOMA ~~NEWS~~ TRIBUNE

Editorial

The Tribune, founded in 1907, and The News, founded as a weekly in 1882 and as a daily on September 25, 1883, were first issued as The News Tribune on June 17, 1918. Published every afternoon as The News Tribune and Sunday morning as The Sunday News Tribune and Sunday Ledger at 711 St. Helens Ave., Tacoma, Wash., it is entered as second-class matter at the post office in Tacoma.

FRANK S. BAKER
1879-1960

ELBERT H. BAKER II
Publisher

GEORGE F. RUSSELL
General Manager

J. ERNEST KNIGHT
Editor

TUESDAY, JULY 9, 1963

He Beat City Hall

You can't beat City Hall, it is so often said. But a Seattle fellow who felt he was being pushed around by the powers that be went to the State Supreme Court to establish his rights. In doing so he established the rights of others, who admire him for his stubbornness and courage.

Charles A. Nave was hauled over to the curb December 20, 1961, because he didn't turn right in the right-turn lane in which he was driving. He went straight ahead. But in a city that has plenty of ambiguous traffic markers, he figured he hadn't reached the point of mandatory turn and he gave the patrolman an argument. He claimed he was manhandled, that he didn't have to tell the officer his occupation as requested, for what does that have to do with a traffic violation? Any man can do it. He was fined $15 in municipal court.

He lost in Superior Court on appeal and then went to the Supreme Court. He even tried his own case, asking the clerk for a form of brief so he could make proper application. The high court agreed with him on his main points.

All this cost him $700 to overturn a $15 fine. But it was worth it, he says. Who will disagree?



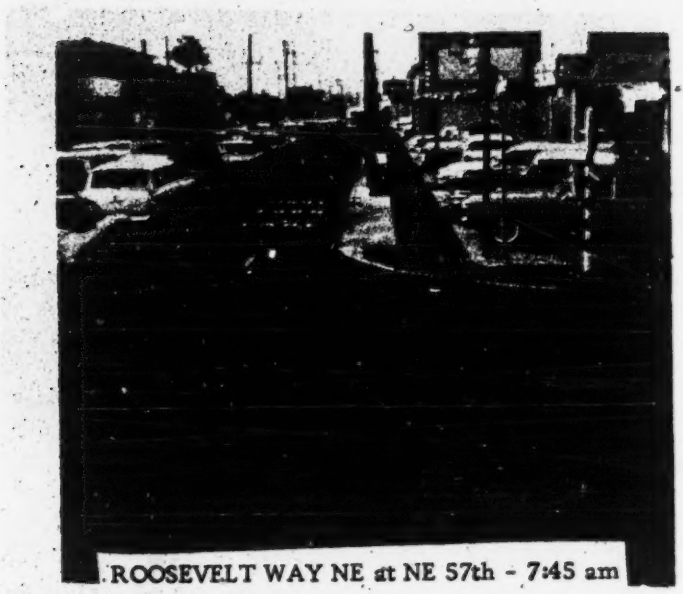
From Butler Fox

Didn't Have To Turn

Charles A. Nave, 60, Seattle, Wash., stands in right turn lane near his home. Two years ago he was fined $15 for not turning right from lane at first intersection he could. After two years of court battles, state Supreme Court has ruled case dismissed because signs lettered on pavement and posted along street were not adequate.

My case attracted wide attention. Newspaper clippings were mailed me from Coast to Coast. Mostly they were from total strangers.

APPENDIX "L"



ROOSEVELT WAY NE at NE 57th - 7:45 am

The "RIGHT TURN LANE" marking in picture above was placed there to inform that at some point ahead motorists would be compelled to turn right by a lane marking of "RIGHT ONLY" as shown below. Pictures of markings in Roosevelt Way N.E., Seattle, as were there on December 20, 1961.



Approaching NE 45th on ROOSEVELT WAY NE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

THE CITY OF SEATTLE, Plaintiff, vs. CHARLES A. NAVE, Defendant.	NO. 3 6 7 9 1

STATEMENT OF FACTS

BE IT REMEMBERED that on the fifth day of March, 1962, the above-entitled and numbered cause came regularly on for trial before the Honorable George R. Stuntz, one of the judges of the above-entitled court, sitting in Department No. 20 thereof, at the King County Courthouse, in the City of Seattle, County of King, State of Washington;

The plaintiff appearing through A. C. Van Soelen, Corporation Counsel, and James G. Leach, Assistant Corporation Counsel; the defendant appearing in person and per se.

WHEREUPON, the following proceedings were had:

THE COURT: The case of the City of Seattle v. Charles Arlin Nave, Cause No. 36791, the City of Seattle is represented?

MR. LEACH: Yes, by James Leach.

THE COURT: Yes. And Charles Arlin Nave, you are going to appear for yourself?

MR. NAVE: For myself, your Honor.

THE COURT: Is it agreed between counsel and Mr. Nave that a jury is waived?

MR. NAVE: That's right, your Honor.

COURT REPORTER
SEATTLE, WASHINGTON

August 13, 1966

To whom it may concern:

This statement is made by Del Comito former King County Deputy Clerk. Onethe date of Feb. 10, 1964 I was on duty as cashier in the King County Clerk's Office and was approched in the regularly course of duty by Charles Nave who handed me a cause of action,which I duly and regularly filed and collected the fee of $15.00. Said action named Charles Nave plaintiff and the City of Seattle Defendant. Upon the request by Charles Nave that he demanded a jury trial- I informed the said Charles Nave that he would have to file a demand for jury and pay a fee of $25.00 as required by law. Inspection of the records confirms the fact that I did file the said action on the date mentioned above and futher inspection of the record shows that on Feb. 21, 1964 said Charles Nave filed a demand for jury and paid the fee of $25.00.

Thisis a true and voluntary statement as to the best of my recollection.

Del Comito

Del Comito

LIBRARY
SUPREME COURT, U.S.
FILED
DEC 3 1966
JOHN F. DAVIS, CLERK

In The
Supreme Court of the United States

OCTOBER TERM 1966

No. 767

CHARLES A. NAVE, *Appellant*,

vs.

THE CITY OF SEATTLE, *Appellee*.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF WASHINGTON

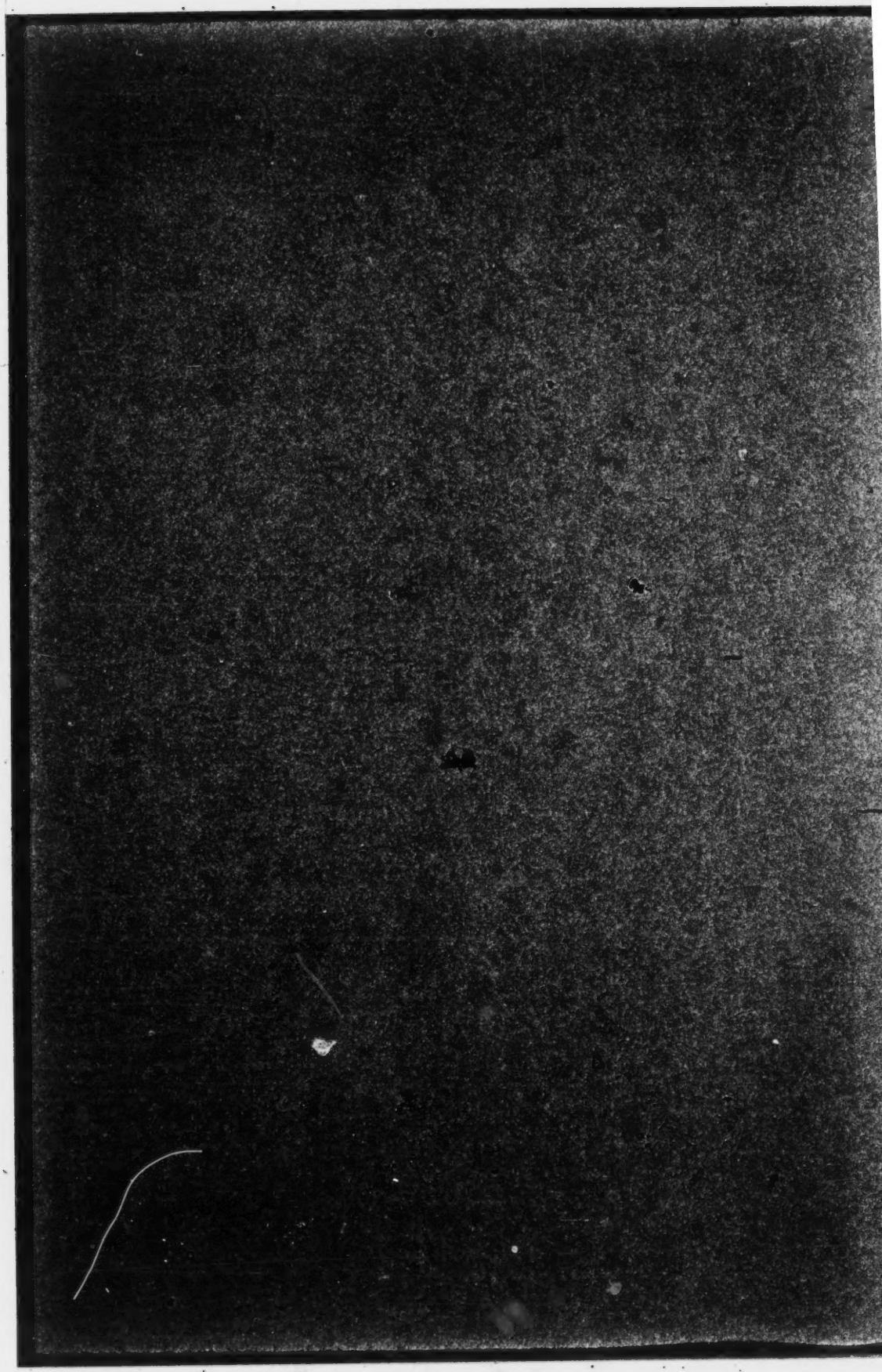
MOTION TO DISMISS OR AFFIRM

A. L. NEWBOULD
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JUniper 3-2338

THE ARGUS PRESS, [redacted] SEATTLE, WASHINGTON



In The
Supreme Court of the United States
OCTOBER TERM 1966

CHARLES A. NAVE, *Appellant,*

VS.

THE CITY OF SEATTLE, *Appellee.*

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF WASHINGTON

MOTION TO DISMISS OR AFFIRM

A. L. NEWBOULD
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THE ARGUS-PRESS. SEATTLE, WASHINGTON

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In The
Supreme Court of the United States

OCTOBER TERM 1966

CHARLES A. NAVE,	*Appellant,*
VS.	
THE CITY OF SEATTLE,	*Appellee.*

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF WASHINGTON

MOTION TO DISMISS OR AFFIRM

The appellee, The City of Seattle, moves the court to dismiss the appeal herein on the ground that it does not present any federal question, or in the alternative affirm the judgment of the Supreme Court of the State of Washington on the ground that the judgment rests on an adequate non-federal basis.

STATEMENT

Appellant was arrested on December 20, 1961 and charged with the violation of certain provisions of two Seattle City Ordinances, to wit: failing to comply with a traffic sign requiring a right turn and resisting

an officer. He was tried and found guilty on both charges by the municipal court of Seattle. He appealed to the superior court and was again found guilty. He appealed to the supreme court which reversed appellant's convictions on both counts and ordered the City's complaint to be dismissed. *Seattle v. Nave,* 62 Wn.2d 446, 383 P.2d 491. The remitttur from the supreme court came down on September 13, 1963.

On December 6, 1963 appellant filed a claim for damages against The City of Seattle with the city clerk and on December 10, 1963 he filed a supplement to this claim.

On February 10, 1964 appellant started the civil action which is the subject of this appeal by filing his complaint with the clerk of King County and serving a copy on appellee, wherein he sought judgment against appellee for damages allegedly occurring at and subsequent to the time of his arrest on December 20, 1961. The latest date which his complaint alleged he received any injury was March 5, 1962. Thereafter appellant's case against appellee was set to be tried on January 27, 1965 before a jury. On January 6, 1965 appellee served and filed its motion for summary judgment, based on the ground that appellant had not filed his claim against appellee within the time required by statute, Revised Code of Washington (R.C.W.) 35.31.010.

On January 25, 1965 appellee's motion was granted by the trial court for the reason that appellant had not filed his claim against appellee within the time required by R.C.W. 35.31.010 *supra,* and appellant's action was dismissed with prejudice. Appellant perfected an appeal to the supreme court of the State of Washington which affirmed the trial court in *Nave v. Seattle,* 68 Wash. Dec. 2d 714, 415 P.2d 93. (This decision is set out in full in Appendix A herein).

ARGUMENT

It is submitted that the decision of the supreme court of the State of Washington affirming the trial court is a correct pronouncement of Washington law which does not involve or give rise to any federal constitutional questions. The trial court granted appellee's motion for summary judgment on the ground that appellant had not met a condition precedent to the maintenance of an action against a first class city such as The City of Seattle by filing a claim in accordance with R.C.W. 35.31.010, the pertinent part of which provides as follows:

> "R.C.W. 35.31.010 First Class Cities — Time for Filing. All claims for damages against any city of the first class must be filed with the city clerk or other proper officer within ninety days from the date that the damage occurred or the injury was sustained: *Provided,* That claims for damages arising from an alleged defective sidewalk must be filed within thirty days from the date the damage occurred or the injury was sustained."

Seattle Charter Article IV, Section 24 relating to claims for damages against the city provides as follows:

> "CLAIMS FOR DAMAGES: All claims for damages against the city must be presented to the city council and filed with the clerk within thirty days after the time when such claim accrued, and no ordinance shall be passed allowing any such claim or any part thereof, or appropriating money or other property to pay or satisfy the same or any part thereof, until such claim has first been referred to the proper department, nor until such department has made its report to the city council thereon, pursuant to such reference. All such claims for damages must accurately locate and describe the defect that caused the injury, accurately describe the injury, give the residence for six months last past of the claimant, contain the items of damages claimed, and be sworn to by the claimant. No action shall be maintained against the city for any claim for damages until the same has been presented to the city council and sixty days have elapsed after such presentation."

The thirty day filing period in said Charter provision was superseded by the ninety day provision of R.C.W. 35.31.010 set forth above except with regard to sidewalk claims.

The timely filing of a claim in accordance with the above statutory and charter provisions is a condition precedent to the maintenance of an action for damages against Washington cities. *Keesling v. Seattle,* 52 Wn. 2d 247, 324 P.2d 806 (1958); *Sheer v. Everett,* 134

Wash. 385, 235 P. 789 (1925); *Lindblom v. Seattle,* 86 Wash. 305, 150 P. 422 (1915); *International Contract Co. v. Seattle,* 74 Wash. 662, 134 P. 502 (1913).

The Washington court correctly ruled herein that appellant's claim was not timely with regard to a possible action for false arrest or false imprisonment which accrues when the arrested person is released on bail, *Belflower v. Blackshere,* 281 P.2d 423, 49 ALR 2d 917 (Okla. 1955), and not timely with regard to an action based on "misuse of office and/or abuse of process" since the last act of the City in appellant's criminal prosecution was presentation of argument in the former appeal in the supreme court on February 5, 1963. The Washington court noted that while appellant's claim would have been timely with regard to an action for malicious prosecution, appellant specifically asserted a number of times that his claim was not predicated upon any theory of malicious prosecution.

It is apparent that the Washington court's affirmance of the trial court's summary judgment dismissing appellant's damage action on the ground that, as a matter of Washington law, a timely claim for damages against appellee had not been filed was correct and that no conceivable federal question is in any way raised or presented by such ruling.

In the state supreme court, and apparently also in this court, appellant maintains that his right to a jury trial was guaranteed under the United States Constitution, Amendment 7, and by the Washington Constitution, Article I, Section 21, and that such right could not be taken from him by virtue of the entry of a summary judgment disposing of his action as a matter of law.

The Washington court succinctly disposed of such contention as follows:

> "This exact contention was before the United States Court of Appeals, 7th circuit, in *United States v. Stangland,* 242 F.2d 843 (7th Cir. 1957) and was rejected upon the authority of the decision of the United States Supreme Court in *Fidelity & Deposit Co. of Maryland v. United States,* 187 U.S. 315, 47 L. Ed. 194, 23 Sup. Ct. 120 (1902). This court has adopted the same reasoning in proceedings where there are no issues of facts to be determined by the jury. *In re Brandon v. Webb,* 23 Wn.2d 155, 160 P.2d 529 (1945)."

In the case of *United States v. Stangland, supra,* the Court of Appeals for the Seventh Circuit, in speaking of the right to a jury trial where a summary judgment had been entered, states at page 848:

> "It is urged that the Act encroaches upon Amendments Seven through Ten. Surely, the granting of a motion for summary judgment where there is no genuine issue of fact is not a denial of the right to trial by jury guaranteed by the Seventh Amendment. *Fidelity & Deposit*

Co. of Maryland v. United States, 187 U.S. 315, 23 S. Ct. 120, 47 L. Ed 194; *Lindsey v. Leavy,* 9 Cir., 149 F.2d 899. . . ."

In his Jurisdictional Statement, appellant seems to be maintaining that Section 1 of the Fourteenth Amendment to the United States Constitution guarantees his "inviolate right" to a jury trial as provided for in Article I, Section 21 of the Washington State Constitution.

Appellant in his Jurisdictional Statement, Appendix "G" p. xxx states that "The above portion of the Fourteenth Amendment makes valid laws of the State mandatory to each person therein. In its acceptance of Washington as a State, Congress accepted Article I, Sec. 21, of the State Constitution, and enforcible by Sec. 1 of the 14th Amendment." No authority has been cited to support such novel contention, and it is submitted that the same is not tenable.

In the case of *Fay v. New York,* 332 U.S. 261, 67 S.Ct. 1613, 91 L. Ed. 2043, it was held that due process and equal protection are not denied to a defendant in a criminal case tried by a jury taken from a special panel, and although state constitutional rights were not specifically discussed the court spelled out the overall relation of the Fourteenth Amendment with regard to state court juries as follows:

"The function of this federal court under the Fourteenth Amendment in reference to state

juries is not to prescribe procedures but is essentially to protect the integrity of the trial process by whatever method the state sees fit to employ . . ."

CONCLUSION

We respectfully submit that the appellant presents no question for the decision of this court; and that the granting of a summary judgment against appellant is not violative of any of appellant's Federal (or State) constitutional rights. Therefore, the appeal should be dismissed, or the judgment below affirmed.

Appellee has not overlooked the fact that appellant's Jurisdictional Statement is replete with burdensome, irrelevant, immaterial, and scandalous matter which is of a particularly repugnant character with regard to statements made castigating and vilifying the superior court judge hearing appellant's case, the state supreme court (e.g., Jurisdictional Statement pp. 3, 10, 11, 12, Appendix "A", pp. IV, XI, XII, Appendix "B", p. XVII) as well as with regard to various unsupported and erroneous allegations of criminal and other misconduct on the part of appellee (e.g., Jurisdictional Statement pp. 10, 22, 26, Appendix "A", pp. IV, VI, IX, Appendix "B". pp. XVIII, XXIX), and appellee therefore requests that said Jurisdictional Statement be disregarded and stricken by the court

by reason of the inclusion of such matter therein.

Respectfully submitted,

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APPENDIX "A"

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CHARLES A. NAVE, *Appellant*, v. THE CITY OF SEATTLE, *Respondent*.	No. 38144 Department One Filed June 9, 1966

WARD, J.[1] — The initial incident which gave rise to this action occurred on December 20, 1961, at which time the plaintiff Charles A. Nave was arrested and charged with the violation of a traffic ordinance of the City of Seattle. He was also charged with resisting arrest in violation of another city ordinance. A somewhat detailed recital of the facts resulting in Mr. Nave's arrest are set out in the opinion of this court in *Seattle v. Nave,* 62 Wn.2d 446, 383 P.2d 491 (1963). Mr. Nave was convicted in the City of Seattle Municipal Court on both charges. He appealed to the Superior Court of King County and, on a trial de novo before the court sitting without a jury, was convicted again on both charges. On appeal to this court, however, the judgment and sentence on both charges was reversed and the city's complaint against Mr. Nave was dismissed. The remittitur from the supreme

[1]Judge Ward is serving as a judge pro tempore of the Supreme Court pursuant to Art. 4, § 2(a), (amendment 38), state constitution.

court was filed on September 13, 1963.

On December 6, 1963, the plaintiff filed a claim against the City of Seattle with the city clerk, followed by a supplemental claim on December 10, 1963.

On February 10, 1964, plaintiff commenced action seeking recovery of damages from the City of Seattle in the sum of $3,355,200, and "additional general damages as due him, computed at the compounded monthly rate of (10) ten percent on the $3,355,200 for each additional month from December 20, 1963, till the date of final settlement."

Both Mr. Nave and the City of Seattle filed a demand for a jury trial and the case was assigned for trial on January 27, 1965. Before trial date, the City of Seattle presented to the court its motion for summary judgment seeking dismissal of the plaintiff's action solely on the contention that the plaintiff's claim against the city was not filed within 90 days as required by RCW 35.31.010.[1]

The city's motion for summary judgment was granted and an order and memorandum decision in

---

[1]The pertinent portion of Laws of 1957, chapter 224, § 2, in effect when the motion for summary judgment was heard, follows:

"All claims for damages against any city of the first class must be filed with the city clerk or other proper officer within ninety days from the date that the damage occurred or the injury was sustained: *Provided*, That claims for damages arising from an alleged defective sidewalk must be filed within thirty days from the date the damage occurred or the injury was sustained."

writing was filed on January 25, 1965, dismissing the plaintiff's action, from which this appeal is taken.

It is the plaintiff's contention that his claim for damages was timely filed. The governing statute requires that a claim for damages be filed within 90 days "from the date that the damage occurred or the injury was sustained." Plaintiff claims that his injury and damage continued up to the date the remittitur was filed in King County on September 13, 1963, and that the filing of his claims on December 6 and December 10, 1963, was therefore timely.

The plaintiff has asserted several times in his brief and in oral argument that he does not predicate his claim against the city on any theory of malicious prosecution.[2]

If the plaintiff had been able to maintain his action as one for malicious prosecution, the claim against the city would have been timely filed.

> Ordinarily an action for malicious prosecution accrues at, and limitations run from, the time of termination of the proceedings. An action for false imprisonment accrues at, and the statute of limitations runs from, the termination of the im-

---

[2]It is stated in plaintiff's brief: "Appellant took particular care that "Malicious Prosecution" not be alleged. Appellant also took particular care not to allege: 'that the proceedings terminated on the merits in favor of the plaintiff.' Appellant did not allege "Malicious Prosecution" for the very reason given in Judge Wright's definition of it as set out in his Memorandum Decision: 'begun in malice without probable cause to believe it can succeed, and finally ends in failure.' "

prisonment. 54 C.J.S. *Limitations of Actions* § 175, p. 144.

Neither may he rely on a claim of unlawful arrest and be held timely in the filing of his claim. A case which is factually very similar to the case *sub judici* is *Belflower v. Blackshere,* 281 P.2d 423 (Okla.), 49 A.L.R.2d 917 (1955). There, the issue was whether the cause of action accrued when the arrested person was released on bail, or upon the final dismissal of the criminal charges against him. The court concluded that the cause of action accrued on the date of his release on bail. This case is followed by an annotation, 49 A.L.R.2d 922 "When statute of limitations begins to run against action for false imprisonment or false arrest." The rule of the Oklahoma court finds almost unanimous support in jurisdictions which have considered the question.

See, *Mobley v. Broome,* 248 N.C. 54, 102 S.E.2d 407 (1958), and *Jedzierowski v. Jordan,* 157 Me. 352, 172 A.2d 636 (1961), and Annotation, 25 A.L.R. 1518.

The plaintiff insists, however, that his claim is based, not primarily upon the illegal arrest of December 20, 1961, but rather upon "misuse of office and/or abuse of process" on the part of the city officials of the City of Seattle. He itemizes in his brief 15 acts which he claims constitute such abuse of process. This series of acts begins with his unlawful

arrest on December 20, 1961, runs the full gamut of the intervening litigation, and concludes with No. 15 "using material in this court which it knew to be false as it asked this court to affirm the conviction that it knew to be wrong." Plaintiff does not set out the date of act No. 15, but we find that the former appeal in *Seattle v. Nave, supra,* was argued in this court on February 5, 1963. The plaintiff concludes, however, that his injury was a "Continuous Accelerating Invasion of His Rights" and that actionable injury was sustained by him up to September 13, 1963. We do not agree.

Even if we should assume that No. 15, above, is an act constituting abuse of process, the plaintiff does not claim any act of injury done to him by the city subsequent to February 5, 1963. Between that date and September 13, 1963, while awaiting the decision of the supreme court, the plaintiff no doubt suffered anxiety ranging upward to mental suffering. But mental suffering following injury is not a continuing form of damage which tolls the accruing of a cause of action.

> An action for abuse of process has been held to come within the provisions of a statute of limitations applicable to "injuries done to the person." The statute begins to run against such an action from the termination of the *acts* which constitute the abuse complained of. (Italics ours.) 1 Am. Jur.2d *Abuse of Process* § 24, p. 269.

> The cause of action for abuse of process is complete as soon as the acts complained of are committed. The remedy for a malicious use of process, however, is not available until the termination of the original proceeding. 72 C.J.S. *Process* § 124c, p. 1199.

See, also, 72 C.J.S. *Process* § 119, p. 1188; 14 A.L.R. 2d 322.

Malicious use of process is essentially the same as an action for malicious prosecution. *Golden Commissary Corp. v. Shipley,* 157 A.2d 810 (D.C. Mun. Ct. of Appeals 1960).

Inasmuch as the plaintiff recites no act of misuse of office and/or abuse of process on the part of any his filing of claim in December, 1963, was untimely. city representative subsequent to February 5, 1963, The trial court was correct in its determination that plaintiff's claim against the city was not timely filed and in granting dismissal upon motion for summary judgment.

The plaintiff claims his right to a jury trial guaranteed in civil actions under U.S. Const. amend. 7, and by Wash. Const. art. 1, § 21 were infringed by the summary judgment proceedings.

This exact contention was before the United States Court of Appeals, 7th circuit, in *United States v. Stangland,* 242 F.2d 843 (7th Cir. 1957) and was re-

jected upon the authority of the decision of the United States Supreme Court in *Fidelity & Deposit Co. of Maryland v. United States,* 187 U.S. 315, 47 L. Ed. 194, 23 Sup. Ct. 120 (1902). This court has adopted the same reasoning in proceedings where there are no issues of facts to be determined by the jury. *In re Brandon v. Webb,* 23 Wn.2d 155, 160 P.2d 529 (1945).

Plaintiff's further assignment of error presents a novel and interesting legal theory. Article 4 § 24 of the Charter of the City of Seattle provides:

> No action shall be maintained against the city for any claim for damages until the same has been presented to the city council and sixty days have elapsed after such presentation.

It is plaintiff's contention that, during such 60-day period, the city had a duty to point out to the claimant any legal defect with respect to the filing of his claim, and that if the 60-day period passes without such affirmative action on the part of the city, it may not thereafter raise the issue of timeliness. The plaintiff does not cite any legal support for this contention and we are unable to find any.

The judgment is affirmed.

WARD, J., Pro Tem.

WE CONCUR:

ROSELLINI, C. J.

HILL, J.

OTT, J.

HUNTER, J.



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IN THE

SUPREME COURT OF THE UNITED STATES

CHARLES A. NAVE, Appellant	)	No. 767
v	)	October Term,
CITY OF SEATTLE, Appellee	)	1966.

On Appeal from the Supreme Court of
The State of Washington - No. 38144

BRIEF OPPOSING MOTION TO DISMISS
OR AFFIRM

FOREWARD

Appellee's paper, Motion to Dismiss or Affirm, by-passes showings by my Jurisdictional Statement wherein I raised Federal Questions in the State Courts. It ignores that actions by the State Courts were without Constitutional authority and, were moves by measures invalid by the fact that they were not enactments by the rules of the Constitution to the making of valid laws. It is these points that are the basis of my appeal. In no part of Appellee's paper have they been covered.

CORRECTING ERROR IN APPELLEE'S "STATEMENT"

In the third paragraph, page 2, of Appellee's paper in this statement:

> "The latest date which his complaint alleged he received any injury was March 5, 1962."

By my Claim referred to supported Complaint, I allege injury through September 13, 1963. It shows injury by Appellee's omission to perform duty due as well as elements of "Corrupt Prosecution". The preceeding and additional features are clearly and fully set out in my Jurisdictional Statement and supported in Transcripts set up on Appeal.

COUNTER ARGUMENT

Appellee's paper, page 6, projects the thought that I maintained my right to trial by jury in the State Courts under the 7th Amendment of the United States Constitution. Pages 12, 13, 15, 16, 17, 19, 20, 27, XII, XIII, XVII, XXI, XXVII, XXVIII & XXX of my Jurisdictional Statement all show this remark of Appellee's to be untrue.

My show of "issues of fact" point to the false in the contention made by Appellee downward on the same page.

On page 7, Appellee attempts to set the 14th Amendment's guarantee of Article I, Section 21 of the State Constitution as

> "novel contention",

but winds up the page starting a quote of this Court from Fay v New York, 332 U. S. 261, 67 S.Ct.

1613, which confutes Appellee's own contention, "that same is not tenable."

To test those two positions, I will set out the Laws and show their relation to Appellee's quote of this Court.

Article I, Section 21 - Trial by Jury - reads:

> "The right of trial by jury shall remain inviolate, but the legislature may provide . . . . for waiving of the jury in civil cases where the consent of the parties interested is given thereto."

R. C. W. 4. 44. 010 - Trial Defined:

> "A trial is the judicial examination of the issues between the parties, whether they are of law or of fact."

By the above laws of the State, it is seen that "Trial" rests with jury when not waived and is composed of both "issues of law and of fact".

This "undiluted state of trial to the jury" is further shown by the State Constitution in its Article IV - The Judiciary - in Section 16 - Charging Juries, where definiteness is put upon duties of the judge in a jury trial:

> "Judges . . . . shall declare the law."

The above laws are guaranteed to each person in The jurisdiction of the State by the Fourteenth Amendment to the United States Constitution in its Section 1:

> ". . . No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any

person of life liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Appellee's quote of this Court, pages 7 & 8:

"The function of this federal court under the Fourteenth Amendment in reference to State juries is not to prescribe procedure but is essentially to protect the integrity of the trial process by whatever method the State sees fit to employ."

The above quote of this Court wholly supports my position in these words:

"The function of this federal court under the Fourteenth Amendment in reference to State juries is . . . . essentially to protect the integrity of trial process by whatever method the State sees fit to employ."

The State is "Instrument of its Constitution".

By its Constitution, the State of Washington's

"method of trial process which it sees fit to employ"

is that of

"Trial (issues of law and of fact) by the jury unless waived by the parties".

This "method of trial process which the State sees fit to employ" is mandatory upon the State Courts by Article I, Section 29 of the State constitution, which reads:

"The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise."

By the foregoing set out ruling of this Court on its power under the Fourteenth Amendment toward State juries, and the foregoing set out State Laws regarding "Trial by Jury", the fallacy is readily seen in Appellee's contention, for, This Court's ruling set out, shows it is duty-bound

> "essentially to protect the integrity of trial process"

as "mandated" by the State Constitution.

This Court further supports the valid laws of the State Constitution in its decision in Miranda v State of Arizona, June 13, 1966, 86 S. Ct. 1602, (U. S. Court Reporter, Vol. 86, No. 17, End of 1965 Term) at Syllabus 38, pages 1608 & 1636, where this Court says:

> "Where rights secured by Constitution are involved, there can be no rule making or legislation which would abrogate them."

The State Constitution does not provide any leeway for the State Courts to employ any method of trial differing from its provisons (which is of trial "undiluted" by jury unless waived by the parties); therefore, by this Court's own rulings, no leeway exists for the State Courts having the authority to

> Abrogate my inviolate right to trial by jury in all issues of trial.

Essentially, This Court said:

> The State Courts and the legislature are legally bound to protect my inviolate right to trial by jury in all issues of trial. They cannot make rules or enactments which abrogate that Constitutional right.

With each of the foregoing set out enactments being valid laws, the non-conforming actions by the State Courts had to be by measures that were invalid. These factors set clear-cut lines for this Court to declare null and void all of the measures not conforming to the requirements of the Constitution.

Appellee advances the theory (page 5) that no federal questions were raised.

The foregoing is Federal Question. Also,

A Federal Question is raised when decision of State of Oklahoma (Motion page 5) or any other State is set out as rule of law for the State of Washington. This is adequately shown in a complete manner in my Jurisdictional Statement.

Even a decision of the State Court must be made under Authority of the Constitution. This fact is because the court cannot legally act as the legislative branch of government. When its rulings are not substantiated by valid law - as in this instance - then it is subject to review in the light of it being that of an invalid measure. The court cannot legally perform at "kangaroo" level and be law unto itself.

As shown in my Jurisdictional Statement,

"right to Trial by Jury"

was deprived me by the State Courts in their application of invalid statutes and use of "produce of the courts" which would be classified as that of the so-called judicial legislation - also a material of invalid nature.

Adequacy of Federal Question for plenary consideration by this Court is well shown by me in my Jurisdictional Statement.

The fallacies of Appellee's contentions on page 5 are fully shown under the heading THE QUESTIONS ARE SUBSTANTIAL in my Jurisdictional Statement (pages 18 thru 28), where I show the incomplete meaning the courts below have put upon the terms "Malicious Prosecution","Misuse of Office" and "Abuse of Process", and their failure to consider other terms more appropriate than "Malicious" as a designation to "Falseness in Prosecution". Setting these terms, in their incomplete manner, as Law of the State of Washington does not carry the "Authority by Constitution", and, would be in the field of "so-called judicial legislation" and be invalid by their insufficiency of meaning as well as lack of authority. As "judicial legislation" they are "repugnant" to the Constitution. As invalid measures, they are specious to the extent of use to deprive of Constitutional Rights; in the other ways, they can only be from the lack of not having made full analysis of meaning which the terms actually convey. But in either case, they are invalid and were used by the courts below to deprive me my inviolate rights.

One does not have to reason much to see that the making of a court decision in Oklahoma would not be the writing of a law in the State of Washington. There is no authority for a judge of any State to write the laws of Washington State. This applies even to the judges of this State. Then too, besides need of authority, to be law there must be writings that are specific so there is no ambiguity in meaning.

The Constitution is an instrument by reason, and its provisions are for the purpose of providing justice and the maintaining and the protection of rights of individuals. As quoted on a television program:

"Justice is man's greatest interest on earth."

and,

"Somebody's justice is everybody's business."

The Constitution is based upon impartiality to individuals. By reason then, one can see that justice can only be had by adhering to measures of impartiality set in the Constitution.

The infectious use of invalid statutes and of the so-called judicial legislation must be stamped out if there is to be respect for forces making up the instrument of government. Every act of the legislature and of the courts should show the stamp of Constitutional Authority.

When courts below move out of the "kangaroo" level of "law unto itself", then respect for law will grow at a rapid pace because then there will be justice.

Appellee's Conclusion (page 8), would strike my Jurisdictional Statement; saying it is

"replete with burdensome, irrelevant, immaterial, and scandalous matter which is of particularly repugnant character. . . vilifying . . . . unsupported and erroneous allegations".

If my allegations were as Appellee says,

"erroneous and unsupported",

Appellee would prevail in a "TRIAL BY JURY".

If Appellee's accusations are true, Appellee need not fear a "trial by Jury" and should welcome the opportunity to exercise the right of "trial by a jury".

Fallacy of Appellee's accusations stand out in a clear manner by the appearance before this Court as a means to prevent there being a "trial by a jury composed of impartial citizens".

The reason Appellee wants to prevent a trial by jury, is because personnel of Appellee who were involved in Appellee's "Corrupt Prosecution" of me, did, under color of law, officially in the name and declared purpose of Appellee, commit criminal acts and omissions against me. And Appellee knows that these things are clearly shown by public recordings, in the sequence of their happenings, and would be presented as evidence to a jury.

In presenting material before this Court, it is proper for me to present defects from below in an undiluted form. Each portion of material contained in my Jurisdictional Statement is true and I considered each part necessary if there was to be a clear understanding of the conditions which I had to face in the courts below.

The objections set out by Appellee are only for the purpose of furthering denial to me of my Constitutional Rights and contain no portion of the purpose in the realm of "Justice".

WITH MY "CONSTITUTIONAL RIGHTS INVOLVED, THERE CAN BE NO RULE MAKING OR LEGISLATION WHICH WOULD ABROGATE THEM.

CONCLUSION

In the formulating days to Statehood for Washington, it was no secret about the high rate of partiality existing with some persons in judicial office, and those who were framers of the State Constitution, as means to preserving impartiality for the obtaining of justice, included in that Statehood Instrument the provision,

> "The right of trial by jury shall remain inviolate"

and also provided the means for waiving of that right by the parties interested. They set duties of the judge in jury trial as

> "Judges . . . . shall declare the law.".

Flaws in the Common Law were seen and it was not used. None of the issues of trial were in any way excluded from determination by jury other than by waiver of the parties - it was recognized that infection of partiality was spread under the control set in "issues of law", and the "Office of Jury" was so constructed as to give prevention against autonomy in the State Court System - that condition being of "kangaroo" level.

This court will recognize that features that lead to the "kangaroo" level, are those bred in the flaunting of Constitutional Law and, continuance at that level is by the voice of court being law unto itself by so-called judicial legislation.

Workings of the State Court System at the "kangaroo" level is clearly evident in the wordings of the judgments that led to my Appeals. It will be noted that not one place is there support of the

position, taken by the State Courts, by Authority of the Constitution or any valid law of the State.

Substitutions for mandated State Laws amounts to maladministration in that it is a circumvention of incessant duty. It was necessary for me to make known these conditions as they showed up in the handling of my case. And such would not be of "irrelevant, immaterial, scandalous or burdensome matter"; nor "vilifying". "Repugnance" would be that illegality of conditions as exercised under those invalid measures used by the State Courts to the exclusion of valid laws by the Constitution.

Already quoted are rulings by this Court which say that this Court's duty is

> "Essentially to protect the integrity of trial process of the State as is mandated by the State Constitution."

Authority for plenary consideration of Federal Questions presented, is given this Court by the Fourteenth Amendment to the Constitution.

Respectfully submitted

CHARLES A. NAVE,
Appellant

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966.

NAVE *v.* CITY OF SEATTLE.

APPEAL FROM THE SUPREME COURT OF WASHINGTON.

No. 767. Decided January 9, 1967.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question.